Burning; #391, Riparian Forest Buffer; #490, Tree/Shrub Site Preparation; and #666, Forest Stand Improvement. These practices will be used to plan and install conservation practices.

DATES: Comments will be received for a 30-day period commencing with this date of publication.

FOR FURTHER INFORMATION CONTACT: John A. Bricker, State Conservationist, Natural Resources Conservation Service (NRCS), 1606 Santa Rosa Road, Suite 209, Richmond, Virginia 23229–5014; Telephone number (804) 287–1691; Fax number (804) 287–1737. Copies of the practice standards will be made available upon written request to the address shown above or on the Virginia NRCS Web site: *http://www.va.nrcs.usda.gov/technical/draftstandards.html*.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law to NRCS State technical guides used to carry out highly erodible land and wetland provisions of the law shall be made available for public review and comment. For the next 30 days, the NRCS in Virginia will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Virginia regarding disposition of those comments and a final determination of change will be made to the subject standards.

Dated: April 23, 2009.

John A. Bricker,

State Conservationist, Natural Resources Conservation Service, Richmond, Virginia.

[FR Doc. E9–10605 Filed 5–6–09; 8:45 am]

BILLING CODE 3410–16–P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Notice

AGENCY: United States Commission on Civil Rights.

ACTION: Notice of meeting.

DATE AND TIME: Friday, May 15, 2009; 9:30 a.m. EDT.

PLACE: 624 9th St., NW., Room 540, Washington, DC 20425.

Meeting Agenda

This meeting is open to the public.

I. Approval of Agenda.
II. Approval of Minutes of April 17, 2009 Meeting.
III. Announcements.
IV. Staff Director's Report.
- Deputy Staff Director Position

V. Program Planning.
- Update on Status of 2009 Statutory Report
- Update on Briefing Report Backlog
- Approval of Briefing Report on Covert Wiretapping in the War on Terror

VI. Management & Operations.
- Motion Regarding Evaluation of Staff Director Performance (Melendez)
- Motion Regarding Staff Director's Provision of Quarterly Financial Reports to Commission (Melendez)
- Motion Regarding Commission Preparation of a Public Service Announcement (Melendez)
- Motion Regarding Review and Standardization of Agency Regulations, Administrative Instructions and Other Practices (Melendez)

VII. State Advisory Committee Issues.
- Connecticut SAC

VIII. Adjourn.

CONTACT PERSON FOR FURTHER INFORMATION: Lenore Ostrowsky, Acting Chief, Public Affairs Unit (202) 376–8582. TDD: (202) 376–8116.

Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Pamela Dunston at least seven days prior to the meeting at 202–376–8105. TDD: (202) 376–8116.

Dated: May 5, 2009.

David P. Blackwood,

General Counsel.

[FR Doc. E9–10819 Filed 5–5–09; 4:15 pm]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–904]

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

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

SUMMARY: The Department of Commerce (''Department'') is conducting the first administrative review of the antidumping duty order on certain activated carbon from the People's Republic of China (''PRC'') for the period October 11, 2006, through March 31, 2008. The Department has preliminarily determined that sales have been made below normal value (''NV'') by the respondents. 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.

Interested parties are invited to comment on these preliminary results. The Department intends to issue the final results no later than 180 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''). *See* ''Extension of the Time Limits for the Final Results'' below.

DATES: *Effective Date:* May 7, 2009.

FOR FURTHER INFORMATION CONTACT: Julia Hancock, Irene Gorelik, or Bob Palmer, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1394, (202) 482–6905 or (202) 482–9068, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 27, 2007, the Department published in the **Federal Register** an antidumping duty order on certain activated carbon from the PRC. *See Notice of Antidumping Duty Order: Certain Activated Carbon from the People's Republic of China,* 72 FR 20988 (April 27, 2007) (''*Order*''). On April 1, 2008, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order of certain activated carbon from the PRC for the period October 11, 2006, through March 31, 2008.[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 73 FR 17317 (April 1, 2008). The Department received timely requests by Petitioners[2] to conduct a review of 90 companies. On June 4, 2008, the Department initiated this review with respect to all requested companies. *See*

[1] The Department does not include merchandise that entered the United States during the provisional measures gap period (''gap period''), *i.e.*, April 9, 2007, and April 19, 2007, in our calculation because these entries are not subject to antidumping duties. *See Notice of Preliminary Results of Antidumping Duty Administrative Review: Low Enriched Uranium from France,* 69 FR 3883 (January 27, 2004). However, for the purposes of these preliminary results, we are basing the margin calculation on all reported U.S. sales made during the POR because we are unable to determine whether any reported U.S. sales entered during the gap period. We will request additional information from the respondents with respect to this issue.

[2] Norit Americas Inc. and Calgon Carbon Corporation.

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 73 FR 31813 (June 4, 2008) (''Initiation Notice'').

On June 26, 2008, Petitioners withdrew the request for review with respect to 57 of the 90 originally requested companies. On July 22, 2008, the Department published a notice of rescission in the **Federal Register** for those 57 companies. *See Certain Activated Carbon From the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review,* 73 FR 42550 (July 22, 2008). On September 16, 2008, Petitioners withdrew the request for review with respect to an additional 19 companies. On October 1, 2008, the Department published a second notice of rescission in the **Federal Register** for those 19 companies. *See Certain Activated Carbon from the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review,* 73 FR 57058 (October 1, 2008). Following the two partial rescissions, 14 companies remained to be reviewed.[3]

On November 26, 2008, the Department published a notice extending the time period for issuing the preliminary results by 120 days to April 30, 2009. *See Certain Activated Carbon from the People's Republic of China: Extension of Time Limits for Preliminary Results of the Antidumping Duty Administrative Review,* 73 FR 72026 (November 26, 2008).

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.[4] 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 involved in the review.

On June 9, 2008, the Department released CBP data for entries of the subject merchandise during the period of review (''POR'') under administrative protective order (''APO'') to all interested parties having an APO as of five days of publication of the *Initiation Notice*, inviting comments regarding the CBP data and respondent selection. The Department received comments and rebuttal comments between June 23, 2008, and July 3, 2008. Based upon the comments received from the Petitioners and several respondents, on July 8, 2008, the Department provided a second round of CBP data under APO to all interested parties having an APO, and invited comments regarding the second round of CBP data. The Department received parties' second round of comments between July 14, 2008 and July 23, 2008.

On August 5, 2008, the Department issued its respondent selection memorandum after assessing its resources and determining that it could reasonably examine three exporters subject to this review. Pursuant to section 777A(c)(2)(B) of the Act, the Department selected Jacobi Carbons AB (''Jacobi''),[5] Calgon Carbon (Tianjin) Co. Ltd. (''CCT''), and Jilin Bright Future Chemicals Company, Ltd. (''Jilin'') as mandatory respondents.[6] The Department sent its antidumping questionnaire to CCT, Jacobi, and Jilin on August 5, 2008. On August 7, 2008, a separate rate respondent, Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd. (''GHC''), requested treatment as a voluntary respondent.

On September 15, 2008, Jilin filed a letter stating that it will not participate as a mandatory respondent in this administrative review.[7] Upon receiving comments from Petitioners regarding Jilin's withdrawal from the proceeding and comments from GHC regarding its status as a voluntary respondent, the Department issued a memorandum selecting GHC as a voluntary respondent. The Department stated that because Jilin decided not to respond to the Department's questionnaires in this administrative review, and the Department previously determined that it had the resources to examine three respondents,[8] it would individually review GHC pursuant to section 782(a) of the Act.[9]

Petitioners submitted deficiency comments regarding all three respondents' questionnaire responses between October 2008 and April 2009. The Department issued supplemental questionnaires to Jacobi, CCT, and GHC between October 2008 and March 2009.

Period of Review

The POR is October 11, 2006, through March 31, 2008.

Surrogate Country and Surrogate Value Data

On August 27, 2008, the Department sent interested parties a letter inviting comments on surrogate country selection and information regarding valuing factors of production.[10] On February 13, 2009, the Department received information to value factors of production (''FOP'') from GHC, CCT, Jacobi, and Petitioners. On February 23, 2009, GHC and Petitioners filed rebuttal comments. On February 24, 2009, GHC provided additional surrogate value information. On March 2, 2009, Petitioners filed additional rebuttal comments. All 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.

Scope of the Order

The merchandise subject to this 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

[3] These companies are: Datong Municipal Yunguang Activated Carbon Co., Ltd.; Hebei Foreign Trade Advertisement Company (and its successor company, Hebei Shenglun Import and Export Group Company); Ningxia Huahui Activated Carbon Co., Ltd.; Ningxia Lingzhou Foreign Trade Co., Ltd.; Ningxia Mineral & Chemical Limited.; Tangshan Solid Carbon Co., Ltd.; Tianjin Maijin Industries Co., Ltd.; Jilin Bright Future Chemicals Company, Ltd.; Jilin Province Bright Future Industry and Commerce Co., Ltd.; Calgon Carbon (Tianjin) Co., Ltd.; Jacobi Carbons AB and its affiliates, Tianjin Jacobi International Trading Co., Ltd. and Jacobi Carbons, Inc.; Tianjin Jacobi International Trading Co., Ltd.; Ningxia Guanghua Cherishment Activated Carbon Co., Ltd.; and Beijing Pacific Activated Carbon Products Co., Ltd.

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

[5] Consisting of Jacobi Carbons AB and its affiliates, Tianjin Jacobi International Trading Co., Ltd. and Jacobi Carbons, Inc.

[6] *See* Memorandum to James Doyle, Director, AD/CVD Operations, Office 9, from Paul Walker, International Trade Compliance Analyst, AD/CVD Operations, Office 9; First Antidumping Duty Administrative Review of Certain Activated Carbon from the PRC: Selection of Respondents for Individual Review, dated August 5, 2008 (''*Respondent Selection Memo*'').

[7] *See* Letter from Jilin Regarding Activated Carbon from the People's Republic of China and Termination of Jilin's Participation as a Mandatory Respondent, dated September 15, 2008.

[8] *See Respondent Selection Memo.*

[9] *See* Memorandum to James Doyle, Director, AD/CVD Operations, Office 9, through Catherine Bertrand, Program Manager, Office 9, from Julia Hancock and Robert Palmer, International Trade Compliance Analysts, AD/CVD Operations, Office 9; Antidumping Duty Administrative Review of Certain Activated Carbon from the People's Republic of China: Selection of Voluntary Respondent, dated October 14, 2008.

[10] *See* the Department's Letter to All Interested Parties; First Administrative Review of Certain Activated Carbon from the People's Republic of China: Deadlines for Surrogate Country and Surrogate Value Comments, dated August 27, 2008.

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 this 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 this 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 this scope, and those containing more than 50 percent chemically activated carbons are outside this 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 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 this 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 this order is dispositive.

Non-Market Economy (''NME'') 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. *See Brake Rotors from the People's Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review,* 71 FR 66304 (November 14, 2006). None of the parties to this proceeding have contested such treatment. Accordingly, the Department calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

Surrogate Country

When the Department investigates imports from an NME country 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)(4) of the Act, the Department bases NV on 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. The Department determined that India, Indonesia, Philippines, Colombia, and Thailand are countries comparable to the PRC in terms of economic development.[11]

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 pursuant to section 773(c)(4) of the Act, is a significant producer of subject merchandise, and has publicly available and reliable data. 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.

Affiliation—GHC

Section 771(33) of the Act, provides that ''the following persons shall be considered to be 'affiliated' or 'affiliated persons' '':

(A) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants.

(B) Any officer or director of an organization and such organization.

(C) Partners.

(D) Employer and employee.

(E) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 percent or more of the outstanding voting stock or shares of any organization and such organization.

(F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.

(G) Any person who controls any other person and such other person.

Additionally, section 771(33) of the Act stipulates that: ''For purposes of this paragraph, a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.''

Based on the evidence on the record in this administrative review including information found in GHC's questionnaire responses, the Department preliminarily finds GHC affiliated with Beijing Pacific Activated Carbon Products Co., Ltd. (''Beijing Pacific''), an exporter of the subject merchandise, Cherishmet Inc. (''Cherishmet''), a U.S. importer of the subject merchandise, Ningxia Guanghua Activated Carbon Company (''GH''), a domestic reseller of the merchandise under consideration, and Company A[12] pursuant to sections 771(33) (E), (F) and

[11] *See* the Department's Letter to All Interested Parties; First Administrative Review of Certain Activated Carbon from the People's Republic of China: Deadlines for Surrogate Country and Surrogate Value Comments, dated August 27, 2008, at Attachment I (''*Surrogate Country List*'').

[12] The identity of this company is business proprietary information; for further discussion of this company, see Memorandum to Catherine Bertrand, Program Manager, AD/CVD Operations, Office 9, from Robert Palmer, Case Analyst, AD/CVD Operations, Office 9, re; Preliminary Determination in the Antidumping Duty Administrative Review of Certain Activated Carbon from the People's Republic of China: Affiliation Memorandum of Ningxia Guanghua Cherishmet Activated Carbon Co. Ltd., (April 30, 2009) (''*GHC Affiliation Memo*'').

(G) of the Act, based on ownership and common control.

We find that in addition to being affiliated, the collapsing criterion of significant potential for manipulation of price exists among Beijing Pacific, Cherishmet, GH, and GHC for the following reasons. There is a level of common ownership between and among these companies: (a) Cherishmet owns Beijing Pacific and a significant share of GHC and (b) GH owns a significant share of GHC. Moreover, a significant level of common control exists among these companies: (a) The owner of Cherishmet is a member of Beijing Pacific and GHC's board of directors; (b) Cherishmet appointed the general manager and board member of Beijing Pacific to GHC's board of directors; (c) GH and GHC share board of directors, management, and employees. Further, we find that the operations of Beijing Pacific, Cherishmet, GH, and GHC are sufficiently intertwined. Specifically, Beijing Pacific and GHC share sales information with Cherishmet. Finally, certain information contained within GHC's supplemental questionnaire responses indicates that Cherishmet sets the U.S. sales prices for Beijing Pacific and GHC. *See* 19 CFR 351.401(f)(1) and (2).[13]

Furthermore, we note that the factors listed in 19 CFR 351.401(f)(2) are not exhaustive, and in the context of an NME investigation or administrative review, other factors unique to the relationship of business entities within the NME may lead the Department to determine that collapsing is either warranted or unwarranted, depending on the facts of the case. *See Hontex Enterprises, Inc. v. United States,* Slip Op. 03–17, 36 (February 13, 2003) (noting that the application of collapsing in the NME context may differ from the standard factors listed in the regulation). Additionally, the Department may consider export decisions in its collapsing analysis. *See Hontex Enterprises v. United States,* 342 F. Supp. 2d 1225, 1230–34 (CIT 2004) (''*Hontex II*''). Furthermore, the Department may expand the market-economy inquiry into the potential for manipulation to include NME exporters' export decisions, rather than whether or not the companies share production facilities. *See Hontex II.*

Accordingly, the Department finds Beijing Pacific, Cherishmet, GH and GHC as a single entity for purposes of this administrative review. *See* 19 CFR 351.401(f). With respect to Company A, based on evidence on the record and evidence presented in GHC's questionnaire responses, the Department preliminarily determines that Company A is not a single entity with GHC. *See* 19 CFR 351.401(f). For a detailed discussion of this issue, *see GHC Affiliation Memo.*

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 requested 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 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.'' *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. 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.

CCT

On August 19, 2008, CCT requested to be excused from reporting FOP data for certain Chinese producers. On September 30, 2008, the Department requested additional information from CCT regarding its exclusion requests. On October 10, 2008, CCT responded and provided detailed information regarding its producers and production quantities. On October 17, 2008, the Department notified CCT that due to the large numbers of producers that supplied CCT during the POR, its request to be excused from reporting certain FOP data would be granted. *See* the Department's Letter to CCT dated October 17, 2008. Specifically, the Department did not require CCT to

[13] 19 CFR 351.401(f)(1) states that the Department will treat ''two or more affiliated producers as a single entity where those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and the Secretary concludes that there is a significant potential for the manipulation of price or production.'' Further, 19 CFR 351.401(f)(2) states that ''in identifying a significant potential for the manipulation of price or production, the factors the Secretary may consider include: (i) The level of common ownership; (ii) The extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (iii) Whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers.''

report FOP data for the following producers: (1) Datong Nanjiao Huiyuan A/C Co. Ltd.; (2) Datong Fuping Activated Carbon Co., Ltd.; (3) Hongke Activated Carbon Co., Ltd.; (4) Ningxia Luyuangheng Activated Carbon Co., Ltd.; (5) Datong Hongtai Activated Carbon Co., Ltd.; and (6) Shanxi Xuanzhong Chemical Industry Co., Ltd. *Id.*

The Department also notified CCT that it would not be required to report FOP data for products that were produced prior to the POR, as indicated in CCT's October 11, 2008, response. Furthermore, the Department notified CCT that it was not required to report FOP data for products that were purchased by and not produced by CCT's producers, as indicated in CCT's October 11, 2008, response. Additionally, the Department notified CCT that, upon CCT's acceptance of the terms of the FOP data exclusions, the Department shall determine the appropriate facts available to apply, in lieu of the actual FOP data, to the corresponding U.S. sales of subject merchandise. *Id.*

Thus, in accordance with section 776(a)(1) of the Act, the Department is applying facts available to determine the normal value for the sales corresponding to the FOP data CCT was excused from reporting. Due to the proprietary nature of the factual information concerning these producers, these issues are addressed in a separate business proprietary memorandum where a detailed explanation of the facts available calculation is provided. *See* Memorandum to Catherine Bertrand, Program Manager, AD/CVD Operations, Office 9, from Irene Gorelik, Senior Case Analyst, AD/CVD Operations, Office 9: Preliminary Results Analysis Memorandum for Calgon Carbon (Tianjin) Co., Ltd., in the Antidumping Duty Administrative Review of Certain Activated Carbon from the People's Republic of China, dated April 30, 2009 (''*CCT Prelim Analysis Memo*'').

Jacobi

On September 15, 2008, Jacobi requested to be excused from reporting FOP data for certain Chinese producers. On September 30, 2008, the Department requested additional information from Jacobi regarding its exclusion requests. On October 10, 2008, Jacobi responded and provided detailed information regarding its producers and production quantities. On October 20, 2008, the Department notified Jacobi that due to the large numbers of producers that supplied Jacobi during the POR, Jacobi would be excused from reporting certain FOP data. *See* the Department's Letter to Jacobi dated October 20, 2008. Specifically, the Department did not require Jacobi to report FOP data for its five smallest producers.[14] Additionally, the Department notified Jacobi that it was not required to report FOP data for products that were produced by the four largest producers prior to the POR, as indicated in Jacobi's October 11, 2008, request. 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 for products produced prior to the POR for the four largest producers, to the corresponding U.S. sales of subject merchandise. Lastly, as indicated in Jacobi's October 10, 2008, response, Jacobi's four largest producers purchased certain quantities of activated carbon from unaffiliated suppliers, but did not sell any of the purchased activated carbon to Jacobi. Thus, the Department notified Jacobi that if this were indeed the case, it would be unnecessary for Jacobi to report the FOPs for such purchases to the Department because these products were not sold to Jacobi. *See Jacobi Producers' Exclusion Letter*.

In accordance with section 776(a)(1) of the Act, the Department is applying facts available to determine the normal value for the sales corresponding to the FOP data that Jacobi was excused from reporting. Due to the proprietary nature of the factual information concerning these producers, these issues are addressed in a separate business proprietary memorandum where a detailed explanation of the facts available calculation is provided. *See* Memorandum to Catherine Bertrand, Program Manager, AD/CVD Operations, Office 9, from Julia Hancock, Senior Case Analyst, AD/CVD Operations, Office 9: Preliminary Results Analysis Memorandum for Jacobi Carbons AB, Tianjin Jacobi International Trading Co., Ltd., and Jacobi Carbons, Inc.'s (collectively ''Jacobi'') in the Antidumping Duty Administrative Review of Certain Activated Carbon from the People's Republic of China, dated April 30, 2009 (''*Jacobi Prelim Analysis Memo*'').

GHC

On September 12, 2008, GHC requested to be excused from reporting FOP data for a Chinese producer.[15] On October 17, 2008, the Department notified GHC that because the FOP data for this Chinese producer are of limited quantity and GHC states it produces comparable products, the Department was excusing GHC from providing the Chinese producer's FOP data. *See* the Department's Letter to GHC dated October 17, 2008. Thus, the Department determined that upon GHC's acceptance of the exclusion terms, the Department would determine the appropriate facts available to apply, in lieu of the actual FOP data for products produced by the excluded producer.

Thus, in accordance with sections 776(a)(1) of the Act, the Department is applying facts available to determine the normal value for the sales corresponding to the FOP data that GHC was excused from reporting. Due to the proprietary nature of the factual information concerning these producers, these issues are addressed in a separate business proprietary memorandum where a detailed explanation of the facts available calculation is provided. *See* Memorandum to Catherine Bertrand, Program Manager, AD/CVD Operations, Office 9, from Robert Palmer, Case Analyst, AD/CVD Operations, Office 9: Preliminary Results Analysis Memorandum for Ningxia Guanghua Cherishmet Activated Carbon Co. Ltd. (''GHC'') in the Antidumping Duty Administrative Review of Certain Activated Carbon from the People's Republic of China, dated April 30, 2009 (''*GHC Prelim Analysis Memo*'').

Jilin

As stated in the ''Respondent Selection'' section above, the Department issued the NME questionnaire to Jilin on August 5, 2008. On August 26, 2008, the Department granted Jilin an extension of seven business days to September 5, 2008, in which to submit its Section A questionnaire response. However, the Department was not contacted by Jilin, nor did it receive a response to section A of the Department's questionnaire by the extended deadline (*i.e.*, September 5, 2008). Moreover, the Department did not receive Jilin's response to sections C and D of the questionnaire by the established deadline (*i.e.*, September 11, 2008).[16] However, the Department

[14] The names of these producers are business proprietary information thus not available for public summary. *See* the Department's letter to Jacobi, dated October 20, 2008, for the names of these producers (''*Jacobi Producers' Exclusion Letter*'').

[15] The name of this producer is business proprietary information thus not available for public summary. *See* the Department's letter to Cherishmet, dated October 27, 2008, for the name of this producer (''*Cherishmet Producers' Exclusion Letter*'').

[16] Although Jilin contacted us on September 11, 2008, withdrawing its request for an administrative

Continued

provided Jilin with another opportunity to explain why it had not submitted responses to sections A, C, and D of the August 5, 2008, questionnaire, and requested that it do so by September 19, 2008.[17] As stated above in the ''Respondent Selection'' section, on September 15, 2008, counsel to Jilin filed a letter stating that Jilin would not participate as a mandatory respondent in this administrative review.[18] Therefore, the Department finds it appropriate to rely on the facts otherwise available in order to determine a margin for Jilin for purposes of these preliminary results, pursuant to section 776(a)(2) of the Act.[19]

As stated above, section 776(b) of the Act provides that, if the Department finds that an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information, the Department may use an inference that is adverse to the interests of that party in selecting from the facts otherwise available. *See also Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India,* 70 FR 54023, 54025–26 (September 13, 2005); and *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil,* 67 FR 55792, 55794–96 (August 30, 2002). Adverse inferences may be employed ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See SAA* at 870. As a result of Jilin's termination of participation from the instant proceeding, the Department is not granting Jilin a separate rate and considers Jilin part of the PRC-wide entity. *See* ''PRC-Wide Entity and Selection of Adverse Facts Available Rate'' section below. *See also* the ''Corroboration'' section below for a discussion of the probative value of the PRC-wide rate of 228.11 percent rate.

PRC-Wide Entity and Selection of Adverse Facts Available (''AFA'') Rate

As noted above, the Department determined that, as a result of Jilin's termination of participation from the instant proceeding, the Department is not granting Jilin a separate rate and considers Jilin part of the PRC-wide entity. Thus, the Department finds that the PRC-wide entity, including Jilin, withheld requested information, failed to provide information in a timely manner and in the form requested, and significantly impeded this proceeding. Moreover, by refusing to answer the Department's questionnaire, the PRC-wide entity, including Jilin, failed to cooperate to the best of its ability. Therefore, the Department must rely on adverse facts otherwise available in order to determine a margin for the PRC-wide entity, pursuant to section 776(a)(2)(A), (B), (C) and 776(b) of the Act.[20] By doing so, the Department ensures that the companies that are part of the PRC-wide entity will not obtain a more favorable result by failing to cooperate than had they cooperated fully in this review.

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. In reviews, the Department normally selects, as AFA, the highest rate on the record of any segment of the proceeding. *See, e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 74 FR 3987, 3989 (January 22, 2009). The Court of International Trade (''CIT'') and the Federal Circuit have consistently upheld the Department's practice in this regard. *See Rhone Poulenc, Inc.* v. *United States,* 899 F.2d 1185, 1190 (Fed. Circ. 1990) (''*Rhone Poulenc*''); *NSK Ltd.* v. *United States,* 346 F. Supp. 2d 1312, 1335 (CIT 2004) (upholding a 73.55 percent total AFA rate, the highest available dumping margin from a different respondent in an LTFV investigation); *see also Kompass Food Trading Int'l* v. *United States,* 24 CIT 678, 689 (2000) (upholding a 51.16 percent total AFA rate, the highest available dumping margin from a different, fully cooperative respondent); and *Shanghai Taoen International Trading Co., Ltd.* v. *United States,* 360 F. Supp 2d 1339, 1348 (CIT 2005) (upholding a 223.01 percent total AFA rate, the highest available dumping margin from a different respondent in a previous administrative review).

The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse ''as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner.'' *See Static Random Access Memory Semiconductors from Taiwan; Final Determination of Sales at Less than Fair Value,* 63 FR 8909, 8932 (February 23, 1998). The Department's practice also ensures ''that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* SAA at 870; *see also Final Determination of Sales at Less than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Brazil,* 69 FR 76910, 76912 (December 23, 2004); *D&L Supply Co.* v. *United States,* 113 F. 3d 1220, 1223 (Fed. Cir. 1997). In choosing the appropriate balance between providing respondents with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent's prior commercial activity, selecting the highest prior margin ''reflects a common sense inference that the highest prior margin is the most probative evidence of current margins, because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less.'' *Rhone Poulenc,* 899 F.2d at 1190. Consistent with the statute, court precedent, and its normal practice, the Department has assigned the rate of 228.11 percent, the highest rate on the record of any segment of the proceeding, to the PRC-wide entity, which includes Jilin, as AFA. *See e.g., Certain Frozen Warmwater Shrimp from the People's Republic of China: Notice of Final Results And Rescission, In Part, of 2004/2006 Antidumping Duty Administrative and New Shipper Reviews,* 72 FR 52049 (September 12, 2007). *See*

review, Norit America, Inc. and Calgon Carbon Corporation (''Petitioners'') requested a review of Jilin; thus, we informed Jilin in the September 12, 2008, letter that it is still under review.

[17] *See* Letter from Catherine Bertrand, Program Manager, Regarding Antidumping Administrative Review of Certain Activated Carbon from the People's Republic of China: Withdrawal of Jilin's Request for Administrative Review (September 12, 2008).

[18] *See* Letter from Jilin Regarding Activated Carbon from the People's Republic of China and Termination of Jilin's Participation As A Mandatory Respondent (September 15, 2008).

[19] *See, e.g., Certain Preserved Mushrooms from the People's Republic of China: Partial Rescission and Preliminary Results of the Sixth Administrative Review, 71 FR 11183 (March 6, 2006) (unchanged in final results); Stainless Steel Sheet and Strip in Coils From Japan: Preliminary Results of Antidumping Duty Administrative Review,* 70 FR 18369 (April 11, 2005) (unchanged in final results).

[20] *See, e.g., Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 71 FR 69546 (December 1, 2006) and accompanying Issues and Decision Memorandum at Comment 1; *see also Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary Results of the First Administrative Review and New Shipper Review,* 72 FR 10689, 10692 (March 9, 2007) (decision to apply total AFA to the NME-wide entity), unchanged in *Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results of the First Antidumping Duty Administrative Review and First New Shipper Review,* 72 FR 52052 (September 12, 2007).

''Corroboration of Information'' section below.

Corroboration of Information

Section 776(c) of the Act requires that the Department corroborate, to the extent practicable, secondary information on which it relies as facts available. ''Secondary information'' is described in the SAA as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See* SAA at 870. The SAA states that ''corroborate'' means to determine that the information has probative value. To be considered corroborated, information must be found to be both reliable and relevant.[21] The Department is applying as AFA the highest rate from any segment of this administrative proceeding, which is the rate currently applicable to all exporters subject to the PRC-wide rate, including Jilin. The AFA rate in the current review (*i.e.*, the PRC-wide rate of 228.11 percent) represents the highest rate from the petition in the LTFV investigation. *See Order.*

For purposes of corroboration, the Department will consider whether that margin is both reliable and relevant. The AFA rate the Department is applying for the current review was corroborated in the LTFV investigation.[22] No information has been presented in the current review that calls into question the reliability of this information. Thus, the Department finds the information continues to be reliable.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico; Final Results of Antidumping Administrative Review*, 61 FR 6812, 6814 (February 22, 1996), the Department disregarded the highest margin in that case as adverse best information available (the predecessor to facts available) because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin. The information used in calculating this margin was based on sales and production data submitted by the petitioner in the LTFV investigation, together with the most appropriate surrogate value information available to the Department chosen from submissions by the parties in the LTFV investigation, as well as information gathered by the Department itself. *See Activated Carbon LTFV*. Furthermore, the calculation of this margin was subject to comment from interested parties in the proceeding. As there is no information on the record of this review that demonstrates that this rate is not appropriate to use as AFA, the Department determines that this rate has relevance.

As the 228.11 percent rate is both reliable and relevant, the Department determines that it has probative value. Accordingly, the Department determines that the calculated rate of 228.11 percent, which is the current PRC-wide rate, is in accord with the requirement of section 776(c) of the Act that secondary information be corroborated to the extent practicable (*i.e.*, that it have probative value). The Department has assigned this AFA rate to exports of the subject merchandise by the PRC-wide entity, which includes Jilin.

Separate Rates

In the *Separate Rates Application and Certification Letter*,[23] the Department notified parties of the recent application and certification process by which exporters and producers may obtain separate rate status in an NME review. The process requires exporters and producers to submit a separate rate status certification and/or application. *See also Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries*, (April 5, 2005) (''*Policy Bulletin 05.1*''), available at: *http://ia.ita.doc.gov*. However, the standard for eligibility for a separate rate (which is whether a firm can demonstrate an absence of both *de jure* and *de facto* government control over its export activities) has not changed.

A designation of a country as an NME remains in effect until it is revoked by the Department. *See* section 771(18)(c)(i) of the Act. 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. See, *e.g., Policy Bulletin 05.1; see also 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). 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. *Id.* Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* government control over export activities. *Id.* The Department analyzes each entity exporting the subject merchandise under a test arising from the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (''*Sparklers*''), as further developed in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (''*Silicon Carbide*''). However, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a separate rate analysis is not necessary to determine whether it is independent from government control. *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).

Excluding the companies selected for individual review, the Department received separate rate applications or certifications from the following

[21] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews,* 61 FR 57391, 57392 (November 6, 1996) unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part,* 62 FR 11825 (March 13, 1997).

[22] *See Final Determination of Sales at Less Than Fair Value: Certain Activated Carbon from the People's Republic of China*, 72 FR 9508 (March 2, 2007) (''*Activated Carbon LTFV*''). An amended final determination was published on March 30, 2007. *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Activated Carbon from the People's Republic of China*, 72 FR 15099 (March 30, 2007).

[23] *See* the Department's letter to interested parties entitled, ''Administrative Review of Certain Activated Carbon from the People's Republic of China: Separate Rate Application and Separate Rate Certification,'' dated August 15, 2008 (''*Separate Rates Application and Certification Letter*'').

companies: Ningxia Huahui Activated Carbon Co., Ltd.; Ningxia Lingzhou Foreign Trade Co., Ltd.; Tangshan Solid Carbon Co., Ltd.; Tianjin Maijin Industries Co., Ltd.; Datong Municipal Yunguang Activated Carbon Co., Ltd.; Hebei Foreign Trade Advertisement Company; and Beijing Pacific Activated Carbon Products Co., Ltd. Additionally, the Department received completed responses to the Section A portion of the NME questionnaire from CCT, Jacobi, and GHC, which contained information pertaining to the companies' eligibility for a separate rate. However, Ningxia Mineral & Chemical Limited, one of the companies upon which the Department initiated an administrative review that has not been rescinded, did not submit either a separate-rate application or certification. Therefore, because Ningxia Mineral & Chemical Limited did not demonstrate its eligibility for separate rate status, it has now been included as part of the PRC-wide entity. Also, as noted above, Jilin has not participated in this administrative review. Therefore, Jilin (including affiliate Jilin Province Bright Future Industry and Commerce Co., Ltd.) has failed to demonstrate its eligibility for a separate rate.

Separate Rate Recipients

1. Wholly Foreign-Owned

CCT and Jacobi have reported that they are wholly foreign-owned. CCT reported that 100 percent of its shares are held by Calgon Carbon Corporation, which is located in the United States. *See* CCT's Section A Questionnaire Response dated September 16, 2008, at pages 2–4. Jacobi reported that it is wholly owned by a company located in a market-economy country, Sweden. *See* Jacobi's Section A Questionnaire Response dated September 5, 2008 at page 3. Therefore, there is no PRC ownership of CCT or Jacobi, and because the Department has no evidence indicating that either company is under the control of the PRC, a separate rates analysis is not necessary to determine whether they are independent from government control.[24] Additionally, one of the exporters under review not selected for individual review, Tangshan Solid Carbon Co., Ltd., reported in its separate-rate certification that it is 100 percent foreign owned. *See* Tangshan Solid Carbon Co. Ltd.'s Separate Rate Certification dated September 15, 2008, at 2. Accordingly, the Department has preliminarily granted separate rate status to CCT, Jacobi, and Tangshan Solid Carbon Co. Ltd.

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

GHC[25] and six 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. The Department has analyzed whether GHC and 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. *See Sparklers,* 56 FR at 20589.

The evidence provided by GHC and the six 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. *See, e.g.,* GHC's Section A Questionnaire Response dated September 5, 2008, at pages 2–4; Datong Municipal Yunguang Activated Carbon Co., Ltd.'s Separate Rate Certification dated September 15, 2008, at Exhibit 3; Hebei Foreign Trade and Advertising Corp.'s Separate Rate Certification dated September 15, 2008, at 3–4.

b. Absence of De Facto Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See Silicon Carbide,* 59 FR at 22586–87; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China,* 60 FR 22544, 22545 (May 8, 1995). The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates. The evidence provided by GHC and the six 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. *See, e.g.,* GHC's Section A Questionnaire Response dated September 5, 2008, at pages 2–4; Ningxia Lingzhou Foreign Trade Company's Separate Rate Application dated October 15, 2008, at 10 and Supplemental Response dated January 8, 2009, at 3–4; Tianjin Maijin Industries Co., Ltd.'s Separate Rate Certification dated September 9, 2008, at Exhibit 1. Therefore, the Department preliminarily finds that GHC and six separate-rate applicants have established that they qualify for a separate rate under the criteria established by *Silicon Carbide* and *Sparklers.*

Separate Rate Calculation

As stated previously, this review covers 14 exporters. Of those, the Department selected two exporters, CCT and Jacobi (including affiliates), as mandatory respondents in this review and one voluntary respondent, GHC (including affiliate Beijing Pacific Activated Carbon Products Co., Ltd.). As stated above, two companies, Ningxia

[24] *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 the final determination; *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).

[25] *See* GHC's Section A Questionnaire Response dated September 5, 2008, at pages 2–4. *See also* Beijing Pacific Activated Carbon Products Co., Ltd.'s Separate Rate Certification dated September 15, 2008 at Exhibit 4.

Mineral & Chemical Limited and Jilin (including affiliate, Jilin Province Bright Future Industry and Commerce Co., Ltd.), are part of the PRC-Wide entity, and thus, are not entitled to a separate rate. The remaining six companies submitted timely information as requested by the Department and remain subject to this review as cooperative separate rate respondents.

For the exporters subject to this review that were determined to be eligible for separate rate status, but were not selected as mandatory respondents, the Department normally establishes a simple-average margin based on an average of the rates it calculated for the mandatory respondents, excluding any rates that are zero, *de minimis*, or based entirely on AFA.[26] Accordingly, for these preliminary results, the rates calculated for Jacobi and CCT (excluding GHC, a voluntary respondent) are applied as the rate for non-selected separate entities. That rate is 119.19 percent. Entities receiving this rate are identified by name in the ''Preliminary Results of Review'' section of this notice.

Date of Sale

CCT, Jacobi, and GHC 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. The Department preliminarily determines that the invoice date is the most appropriate date to use as CCT's, Jacobi's, and GHC's date of sale in accordance with 19 CFR 351.401(i) and the Department's long-standing practice of determining the date of sale.[27]

Fair Value Comparisons

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

U.S. Price

Export Price

In accordance with section 772(a) of the Act, the Department calculated the EP for a portion of sales to the United States for GHC because the first sale to an unaffiliated party was made before the date of importation and the use of CEP was not otherwise warranted. The Department calculated EP based on the price to unaffiliated purchasers in the United States. In accordance with section 772(c) of the Act, as appropriate, the Department deducted from the starting price to unaffiliated purchasers foreign inland freight and brokerage and handling. Each of these services was either provided by an NME vendor or paid for using an NME currency. Thus, the Department based the deduction of these movement charges on surrogate values. Additionally, for international freight provided by a market economy provider and paid in U.S. dollars, the Department used the actual cost per kilogram of the freight. *See Prelim Surrogate Value Memo* for details regarding the surrogate values for movement expenses.

Constructed Export Price

For all of CCT's and Jacobi's sales and the majority of GHC's sales, the Department based U.S. price on CEP in accordance with section 772(b) of the Act, because sales were made on behalf of the Chinese-based companies 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. Where foreign movement expenses, international movement expenses, or U.S. movement expenses were provided by PRC service providers or paid for in Renminbi, the Department valued these services using surrogate values (*see* ''Factor Valuations'' section below for further discussion). For those expenses that were provided by a market economy provider and paid for in a market economy currency, the Department used the reported expense. However, the Department has not used GHC's reported market economy international freight expenses because they were not provided by and paid for directly through a market economy provider.[28] 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 memorandums, dated April 30, 2009.

CCT also requested that the Department apply the ''special rule'' for merchandise with value added after importation and excuse CCT from reporting U.S. resales 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 the resales. CCT made this request with respect to all categories of U.S. sales with further manufacturing and provided further-processing cost data. *See* CCT's Section A Questionnaire Response dated September 16, 2008, at page 32 and Exhibit 11; *see also* CCT's Supplemental Section C Questionnaire Response dated January 7, 2009 at Exhibit 44–A. Petitioner NORIT submitted comments on October 21, 2008, and December 23, 2008, arguing that, among other concerns, CCT overstated the significance of its further manufacturing costs.

The Department preliminarily determines that the ''special rule'' under section 772(e) of the Act for merchandise with value added after importation applies 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

[26] *See, e.g., Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Results of New Shipper Review and Partial Rescission of Administrative Review,* 73 FR 8273, 8279 (February 13, 2008) (unchanged in *Wooden Bedroom Furniture from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review,* 73 FR 49162 (August 20, 2008)).

[27] *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.

[28] *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 70.

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. *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*''). 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 value-added merchandise. *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 Irene Gorelik, Senior 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 April 30, 2009 (''*Special Rule Memo*'').

Accordingly, the Department has determined to apply the ''special rule'' to merchandise with value added after importation to CCT's U.S. resales of subject merchandise further processed by CCC in the United States and excuse CCT from reporting these U.S. sales and the U.S. further-processing cost information associated with the resales. For purposes of these preliminary results, the Department has applied the weighted-average margin from CCT's other U.S. sales to the quantity of U.S. further manufactured sales. *See CCT Prelim Analysis Memo.*

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a factors-of-production 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, Jacobi, and GHC. As the corresponding U.S. sales from the material supplied by the excused producers were reported in the U.S. sales listing, the Department has assigned FOPs for similar subject merchandise that was produced by CCT, Jacobi, and GHC, respectively, as facts available, to those sales observations associated with the excluded producers. *See CCT Prelim Analysis Memo, Jacobi Prelim Analysis Memo* and *GHC Prelim Analysis Memo.*

Additionally, CCT has reported that its individual producers could not provide FOP data on a CONNUM-specific basis. *See, e.g.,* CCT letter dated March 17, 2009. Rather, these individual producers have reported FOP consumption data based on product family codes, which are then batch-tested by CCT to determine and assign a CONNUM to the product family codes based on a weighted-average calculation of its producers' FOP consumption. CCT has provided detailed and potentially verifiable information on the standards used in the ordinary course of business by CCT and its producers. *See* Supplemental Section D Questionnaire Response dated February 17, 2009. 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. *See, e.g.,* CCT's Second Supplemental Section D Questionnaire Response dated March 13, 2009, at 2 and Exhibits FW–7, FW–9, FW–11, XX–4. Further, CCT has explained that each of its producers maintains records on the consumption of all raw materials. CCT notes that its producers do not track data during the production process for four product characteristics within the CONNUM: apparent density, hardness, abrasion, and ash content. However, CCT claims that it has provided its FOP data based on as much detail as the books and records of its records and its producers' records would allow. *See* CCT's Supplemental Section D Questionnaire Response dated February 17, 2009, at 3–7. Therefore, on the basis of the data submitted by CCT, which the Department intends to carefully scrutinize at verification, the Department preliminarily determines that CCT's FOP reporting methodology is sufficient to preliminarily calculate an accurate dumping margin. Nonetheless, we are hereby notifying CCT 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.[29] Additionally, as stated in *Certain Tissue Paper Products from the People's Republic of China,* the Department also notes that there is no reason to conclude that respondents in future segments would be unable to report FOPs on a CONNUM-specific basis, notwithstanding the fact that previous respondents have been unable to do so, based on the manner in which they chose to maintain their records. *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.

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to value the FOPs, but when a producer sources an input from a market economy country and pays for it in a market economy currency, the Department may value the factor using the actual price paid for the input.[30] During the POR, Jacobi reported that it

[29] 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 1.

[30] *See Lasko Metal Products* 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).

purchased certain inputs from a market economy supplier and paid for the inputs in a market economy currency. *See* Jacobi's Section D Questionnaire Response dated October 24, 2008, at D–1–5 and Exhibit D–1–E. The Department has a rebuttable presumption that market economy input prices are the best available information for valuing an input when the total volume of the input purchased from all market economy 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. *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''*). In these cases, unless case-specific facts provide adequate grounds to rebut the Department's presumption, the Department will use the weighted average market economy purchase price to value the input. Alternatively, when the volume of an NME firm's purchases of an input from market economy 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 market economy purchase price with an appropriate surrogate value (''SV'') according to their respective shares of the total volume of purchases, unless case-specific facts provide adequate grounds to rebut the presumption. *See Antidumping Methodologies.* When a firm has made market economy 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 market economy purchases meet the 33-percent threshold. *See Antidumping Methodologies.*

The Department used the Indian Import Statistics to value the raw material and packing material inputs that CCT, Jacobi, and GHC used to produce the merchandise under investigation during the POR, except where listed below. With regard to both the Indian import-based surrogate values and the market economy 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 India, 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.[31] 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. *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). Rather, the Department bases its decision on information that is available to it at the time it makes its determination. *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). 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. *See id.*

Factor Valuations

In accordance with section 773(c) of the Act, for subject merchandise produced by CCT, Jacobi, and GHC, the Department calculated NV based on the FOPs reported by CCT, Jacobi, and GHC 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, Jacobi, and GHC'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. *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.

As appropriate, the Department adjusted input prices by including freight costs to render them 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, Jacobi, and GHC, *see* Memorandum to the File through Catherine Bertrand, Program Manager, Office 9 from Blaine Wiltse, Case Analyst, re; First Administrative Review of Certain Activated Carbon from the People's Republic of China: Surrogate Values for the Preliminary Results (*''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 (''WPI'') as published in the International Financial Statistics of the International Monetary Fund, a printout of which is attached to 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 basis.

The Department valued electricity using price data for small, medium, and large industries, as published by the

[31] See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Notice of Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review,* 70 FR 54007, 54011 (September 13, 2005) (unchanged in the final results); *China National Machinery Import & Export Corporation* v. *United States,* 293 F. Supp. 2d 1334 (CIT 2003), as affirmed by the Federal Circuit, 104 Fed. Appx. 183 (Fed. Cir. 2004).

Central Electricity Authority of the Government of India (''CEA'') in its publication titled ''Electricity Tariff & Duty and Average Rates of Electricity Supply in India'', dated July 2006. These electricity rates represent actual country-wide, publicly available information on tax-exclusive electricity rates charged to industries in India. Since the rates are not contemporaneous with the POR, the Department inflated the values using the WPI. Parties have suggested that the Department rely on June 2008 CEA data and International Energy Agency (''IEA'') data. However, the Department preliminarily finds that we cannot rely on those data because we are unable to separate duty rates from the June 2008 CEA data, and the IEA data are less contemporaneous than the July 2006 CEA data. Additionally, Petitioners have recommended that the Department not use CEA data because of a 2007 TERI report that indicated that the rates include subsidies and are below production. However, the Department was unable to find sufficient evidence of subsidies to demonstrate that the electricity rates used in the CEA data were unreliable. Moreover, the Department was also unable to find sufficient evidence to demonstrate that the electricity rates used in the CEA data were below cost. Therefore, we preliminarily determine to value electricity using the CEA price data. *See Prelim Surrogate Value Memo.*

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. *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 Issue and Decision Memorandum at Comment 11. Although some suppliers have reported that they obtain water from a well, the Department finds that whether the producer pays for water is irrelevant in determining whether it should be considered a direct material input.[32] Further, there is no evidence on the record that the Indian producers of activated carbon from which the Department are obtaining overhead financial ratio data account for water as an overhead expense. 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 June 2003: 193 for the ''inside industrial areas'' usage category and 193 for the ''outside industrial areas'' usage category. Because the value was not contemporaneous with the POR, the Department adjusted the rate for inflation. *See Prelim Surrogate Value Memo.*

For direct, indirect, and packing labor, consistent with 19 CFR 351.408(c)(3), the Department used the PRC regression-based wage rate as reported on Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in May 2008; *see Corrected 2007 Calculation of Expected Non-Market Economy Wages,* 73 FR 27795 (May 14, 2008), and *http://ia.ita.doc.gov/wages/index.html*. The source of these wage-rate data on Import Administration's web site is the Yearbook of Labour Statistics 2005, ILO (Geneva: 2007), Chapter 5B: Wages in Manufacturing. Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, the Department has applied the same wage rate to all skill levels and types of labor reported by the respondents. *See Prelim Surrogate Value Memo.*

For coal gas, the Department examined Indian import data and noted that there are no imports of commercial quantities of coal gas for the POR or prior to the POR. Because the Department found no usable data to value coal gas, the Department has determined to use the methodology employed in pure magnesium from the PRC. *See Pure Magnesium from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 73 FR 76336 (December 16, 2008) and accompanying *Issues and Decisions Memorandum* at Comment 4. Therefore, to value coal gas, the Department first obtained a value for natural gas from the financial statements found in the 2007–2008 Annual Report of the Gas Authority of India Ltd. (''GAIL''), a supplier of natural gas in India. The Department then compared the amount of British thermal units (''BTUs'') in coal gas (*i.e.,* 600) to that of natural gas (*i.e.,* 1150) to calculate the relative percentage of BTUs in coal gas. The Department has applied that percentage to the value of natural gas to determine a surrogate value for coal gas.[33] *See Prelim Surrogate Value Memo.*

The Department calculated the surrogate value for steam based upon the April 2007–March 2008 financial statement of Hindalco Industries Limited (''Hindalco''). *See 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China: Final Determination of Sales at Less than Fair Value,* 74 FR 10545 (March 11, 2009), and accompanying Issues and Decision Memorandum at Comment 4. For a detailed explanation of our reasons for using Hindalco's financial statements as the source of the surrogate value for steam, *see Prelim Surrogate Value Memo.*

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 Web site contains inland freight truck rates between many large Indian cities. Since this value is not contemporaneous with the POR, the Department deflated the rate using WPI. *See Prelim Surrogate Value Memo.*

To value international freight, the Department obtained price data from the Maersk SeaLand Web site (*https://www.maerskline.com*). *See Prelim Surrogate Value Memo.* To value marine insurance, the Department used data from RGJ Consultants (*http://www.rjgconsultants.com/*). This source provides information regarding the per-value rates of marine insurance of imports and exports to/from various countries. *See Prelim Surrogate Value Memo.*

To value brokerage and handling, the Department calculated a simple average of the brokerage and handling costs that were reported in public submissions that were filed in three antidumping duty cases.[34] Specifically, the Department averaged the public brokerage and handling expenses reported by Navneet Publications (India) Ltd. in the 2007–2008 administrative

[32] *See Pacific Giant, Inc., et al.* v. *United States,* 223 F. Supp. 2d 1336, 1346 (CIT 2002); *Fresh Garlic From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews,* 69 FR 33626 (June 16, 2004) and accompanying Issues and Decisions Memorandum at Comment 2.

[33] We note that we have also used this methodology in other proceedings. *See Certain Cut-to-Length Carbon Steel Plate from Romania: Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review,* 70 FR 12651 (March 15, 2005), and accompanying *Issues and Decision Memorandum* at Comment 6; *see also Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From the People's Republic of China,* 66 FR 22183 (May 3, 2001) (unchanged in *Final Notice of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From the People's Republic of China,* 66 FR 49632 (September 28, 2001)).

[34] Certain Lined Paper Products from India (07–08), Certain Hot-Rolled Carbon Steel Flat Products from India (06–07), and Certain Preserved Mushrooms From India (05–06).

review of certain lined paper products from India, Essar Steel Limited in the 2006–2007 antidumping duty administrative review of hot-rolled carbon steel flat products from India, and Himalaya International Ltd. in the 2005–2006 administrative review of certain preserved mushrooms from India. The Department inflated the brokerage and handling rate using the appropriate WPI inflator. *See Prelim Surrogate Value Memo*.

To value factory overhead, selling, general, and administrative (''SG&A'') expenses, and profit, the Department used the average of the audited financial statements of three Indian activated carbon producing companies; those being, Core Carbons for fiscal year (''FY'') 07–08, Indo German Carbons Ltd. for FY 07–08, and Kalpalka Chemicals Ltd. for FY 06–07.[35] Additionally, while GHC also provided an additional source for surrogate financial ratios using the financial statements of Quantum Active Carbon Pvt. Ltd. (''Quantum''), which is an Indian producer of activated carbon products, the Department preliminarily finds that the financial statements of this producer should not be used for purposes of calculating surrogate financial ratios because the financial statement was submitted without the profit and loss statement. Although GHC provided Quantum's profit and loss statement on February 24, 2009, 11 days after submitting Quantum's financial statement, GHC did not provide any explanation of how this profit and loss statement was obtained or whether it is available in the public domain. Thus, we find that absent any information on the record with respect to the availability of Quantum's complete financial statements, inclusive of the profit and loss statement, we find that Quantum's financial statement is incomplete. Therefore, pursuant to 19 CFR 351.408(c)(3), the Department preliminarily determines that the FY 07–08 financial statements of Core Carbons and Indo German Carbons Ltd., and the FY 06–07 financial statements of Kalpalka Chemicals Ltd. provide the best available information with which to calculate surrogate financial ratios, because they are complete, publicly available, and contemporaneous with the POR. Additionally, all three of these companies produce comparable merchandise and use an integrated carbonization production process which closely mirrors that of all three respondents. Therefore, the Department has used these financial statements to value factory overhead, SG&A, and profit, for these preliminary results.

With respect to GHC's request for a byproduct offset for fines, the Department has preliminarily determined that the product GHC has claimed as a byproduct is in fact merchandise within the scope of this administrative review because it is still considered activated carbon, and, therefore should not be considered a byproduct. Consequently, the Department is not granting a byproduct credit in our margin calculation for GHC. *See GHC Prelim Analysis Memo*.

Currency Conversion

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

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

CERTAIN ACTIVATED CARBON FROM THE PEOPLE'S REPUBLIC OF CHINA

Manufacturer/exporter	Weighted average margin (percent)
Calgon Carbon (Tianjin) Co., Ltd	188.57
Jacobi Carbons AB[36]	49.81
Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd[37]	50.84
Datong Municipal Yunguang Activated Carbon Co., Ltd	119.19
Hebei Foreign Trade Advertisement Company	119.19
Ningxia Huahui Activated Carbon Co., Ltd	119.19
Ningxia Lingzhou Foreign Trade Co., Ltd	119.19
Tangshan Solid Carbon Co., Ltd	119.19
Tianjin Maijin Industries Co., Ltd	119.19
PRC-Wide Rate[38]	228.11

Disclosure and Public Hearing

The Department will disclose toparties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice. *See* 19 CFR 351.224(b). Because, as discussed above, the Department intends to seek additional information, the Department will establish the briefing schedule at a later time, and will notify parties of the schedule in accordance with 19 CFR 351.309. 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. *See* 19 CFR 351.309(c) and (d).

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. *Id.* Issues raised in the hearing will be limited to those raised in the respective case briefs. The Department will issue the final results of this administrative review, including the results of its analysis of the issues

[35] The FY 07–08 financial statements for Core Carbons were submitted by Petitioners on February 13, 2009; the FY 07–08 financial statements for Indo German Carbons Ltd. and the FY 06–07 financial statements for Kalpalka Chemicals Ltd. were submitted by Jacobi on February 13, 2009.

[36] And its affiliates, Tianjin Jacobi International Trading Co., Ltd. and Jacobi Carbons, Inc.

[37] Ningxia Guanghua Cherishment Activated Carbon Co., Ltd. and the following companies have been determined to be a single entity: Beijing Pacific Activated Carbon Products Co., Ltd., Ningxia Guanghua Activated Carbon Company, and Company A. Thus, the calculated margin applies to the single entity.

[38] The PRC-Wide entity includes Ningxia Mineral & Chemical Limited, Jilin Bright Future Chemicals Company, Ltd. and its affiliate, Jilin Province Bright Future Industry and Commerce Co., Ltd.

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.

Extension of the Time Limits for the Final Results

Section 751(a)(3)(A) of the Act requires that the Department issue the final results of an administrative review within 120 days after the date on which the preliminary results are published. If it is not practicable to complete the review within that time period, section 751(a)(3)(A) of the Act allows the Department to extend the deadline for the final results to a maximum of 180 days after the date on which the preliminary results are published.

In this proceeding, the Department requires additional time to complete the final results of this administrative review to issue additional supplemental questionnaires, conduct verifications of several producers in addition to the exporters, generate the reports of the verification findings, and properly consider the issues raised in case briefs from interested parties. Thus, it is not practicable to complete this administrative review within the original time limit. Consequently, the Department is extending the time limit for completion of the final results of this review by 60 days, in accordance with section 751(a)(3)(A) of the Act. The final results are now due no later 180 days after the publication date of these preliminary results.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by these reviews. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review excluding any reported sales that entered during the gap period. 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. Where the respondent has reported reliable entered values, we calculated importer (or customer)-specific ad valorem rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer). *See* 19 CFR 351.212(b)(1). Where an importer (or customer)-specific ad valorem rate is greater than *de minimis*, we will apply the assessment rate to the entered value of the importers'/customers' entries during the POR. *See* 19 CFR 351.212(b)(1).

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

For the companies receiving a separate rate that were not selected for individual review, we will calculate an assessment rate based on the simple average of the cash deposit rates calculated for the companies selected for individual review pursuant to section 735(c)(5)(B) of the Act.

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 will 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 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 228.11 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

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

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: April 30, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary, for Import Administration.

[FR Doc. E9–10631 Filed 5–6–09; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–274–804]

Carbon and Certain Alloy Steel Wire Rod from Trinidad and Tobago: Extension of Time Limit for the Preliminary Results of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: May 7, 2009.

FOR FURTHER INFORMATION CONTACT: Dennis McClure or Jolanta Lawska, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482–5973 and (202) 482–8362, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 24, 2008, the U.S. Department of Commerce (''the Department'') published a notice of initiation of the administrative review of the antidumping duty order on carbon