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June 3, 2013

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

FROM: Christian Marsh
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Citric Acid and Certain Citrate Salts from the People's Republic of China

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SUMMARY

In response to requests from interested parties, the Department of Commerce ("Department") is conducting the third administrative review of the antidumping duty ("AD") order on citric acid and certain citrate salts ("citric acid") from the People's Republic of China ("PRC") for the period of review ("POR") May 1, 2011, through April 30, 2012. The Department has preliminarily determined that RZBC Imp. & Exp. Co., Ltd. ("RZBC I&E")[1] did not sell subject merchandise in the United States at prices below normal value ("NV"). Additionally, the Department has preliminarily determined that Yixing Union Biochemical Co., Ltd. ("Yixing Union") had no shipments during the review.

If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection ("CBP") to assess ADs on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. We will issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the "Act").

[1] The Department initiated the third administrative review on RZBC Co., Ltd. ("RZBC Co."), RZBC I&E, and RZBC (Juxian) Co., Ltd. (collectively "RZBC"). Only RZBC I&E exported subject merchandise to the United States during the POR.

Background

On May 29, 2009, the Department published in the Federal Register the AD order on citric acid from the PRC.[2] On May 1, 2012, RZBC requested an administrative review of its exports and sales. Additionally, Archer Daniels Midland Company, Cargill, Incorporated, and Tate & Lyle Ingredients Americas LLC ("Petitioners") requested an administrative review for RZBC and Yixing Union on May 31, 2012.[3] On July 10, 2012, the Department published the initiation of the third administrative review of the AD order on citric acid from the PRC and initiated reviews of RZBC and Yixing Union, for the period May 1, 2011, through April 30, 2012.[4] On July 13, 2012, Yixing Union reported that it had had no sales, shipments, or exports of the subject merchandise to the United States during the POR.[5] The Department issued the original questionnaire to both RZBC and Yixing Union on July 31, 2012. On August 3, 2013, the Department issued customs instructions to the U.S. Customs and Border Protection ("CBP") inquiring whether subject merchandise from the PRC was exported by Yixing Union into the United States during the POR. On August 22, 2012, Yixing Union sought clarification from the Department regarding how to respond to the questionnaire and, thereafter, did not respond to the questionnaire. Based on Yixing Union's July 13, 2012, no-shipments certification, and because CBP had no findings of reviewable transactions, the Department preliminarily determines that Yixing Union has no shipments for this review.

Between October 26, 2012, and May 2, 2013, the Department issued supplemental questionnaires to RZBC. RZBC submitted timely responses to these supplemental questionnaires between November 28, 2012, and May 7, 2013.

On January 22, 2013, the Department fully extended the time period for issuing the preliminary results by 120 days,[6] in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2). Subsequently, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 29, through October 30, 2012.[7] Thus, all deadlines in this segment of the proceeding have been extended by two days.

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[2] See Citric Acid and Certain Citrate Salts from Canada and the People's Republic of China: Antidumping Duty Orders, 74 FR 25703 (May 29, 2009).
[3] See Letter from Petitioners to the Department, regarding "Citric Acid and Certain Citrate Salts From The People's Republic Of China /Request For Administrative Review," dated May 31, 2012.
[4] See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 77 FR 40565 (July 10, 2012) ("Initiation Notice").
[5] See Letter from Yixing Union to the Department, regarding "Antidumping Duty Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China - No Shipments Letter of Yixing Union Biochemical Co. Ltd.," dated July 13, 2012.
[6] See Memorandum from Krisha Hill, International Trade Compliance Analyst, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, regarding "Citric Acid and Certain Citrate Salts from the People's Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated January 18, 2013 (signed January 22, 2013).
[7] See Memorandum from Paul Piquado, Assistant Secretary for Import Administration, to the Record, regarding, "Tolling of Administrative Deadlines as a Result of the Government Closure During Hurricane Sandy," dated October 31, 2013.

Scope of the Order

The scope of the order includes all grades and granulation sizes of citric acid, sodium citrate, and potassium citrate in their unblended forms, whether dry or in solution, and regardless of packaging type. The scope also includes blends of citric acid, sodium citrate, and potassium citrate; as well as blends with other ingredients, such as sugar, where the unblended form(s) of citric acid, sodium citrate, and potassium citrate constitute 40 percent or more, by weight, of the blend. The scope of the order also includes all forms of crude calcium citrate, including dicalcium citrate monohydrate, and tricalcium citrate tetrahydrate, which are intermediate products in the production of citric acid, sodium citrate, and potassium citrate. The scope of the order does not include calcium citrate that satisfies the standards set forth in the United States Pharmacopeia and has been mixed with a functional excipient, such as dextrose or starch, where the excipient constitutes at least 2 percent, by weight, of the product. The scope of the order includes the hydrous and anhydrous forms of citric acid, the dihydrate and anhydrous forms of sodium citrate, otherwise known as citric acid sodium salt, and the monohydrate and monopotassium forms of potassium citrate. Sodium citrate also includes both trisodium citrate and monosodium citrate, which are also known as citric acid trisodium salt and citric acid monosodium salt, respectively. Citric acid and sodium citrate are classifiable under 2918.14.0000 and 2918.15.1000 of the Harmonized Tariff Schedule of the United States ("HTSUS"), respectively. Potassium citrate and crude calcium citrate are classifiable under 2918.15.5000 and 3824.90.9290 of the HTSUS, respectively. Blends that include citric acid, sodium citrate, and potassium citrate are classifiable under 3824.90.9290 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

DISCUSSION OF THE METHODOLOGY

Non-Market Economy Country

The Department considers the PRC to be a non-market economy ("NME") country.[8] 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. Therefore, we continue to treat the PRC as an NME country for purposes of these preliminary results.

[8] See Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Preliminary Results of the First Administrative Review, Preliminary Rescission, in Part, and Extension of Time Limits for the Final Results, 76 FR 62765, 62767-68 (October 11, 2011), unchanged in Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Results and Partial Rescission of First Antidumping Duty Administrative Review, 77 FR 21734 (April 11, 2012).

Separate Rate

There is a rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single AD rate.[9] In the Initiation Notice, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings.[10] It is the Department's policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (de jure) and in fact (de facto), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in Sparklers,[11] as amplified by Silicon Carbide.[12] However, if the Department determines that a company is wholly foreign-owned or located in a market economy ("ME"), then a separate rate analysis is not necessary to determine whether it is independent from government control.[13] In this administrative review, we received a response to the section A of the NME AD question from RZBC, which contained information pertaining to the company's eligibility for a separate rate.

a) Absence of De Jure Control

The Department considers the following de jure criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies.[14]

The evidence provided by RZBC 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 the companies.[15] Record evidence indicates that RZBC I&E and RZBC Co. may be subject to export licensing requirements. Specifically, Petitioners provided information indicating that citric acid, and RZBC I&E and RZBC Co., were subject to

[9] See Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China, 71 FR 53079, 53082 (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).

[10] See Initiation Notice, 77 FR at 40566.

[11] See Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China, 56 FR 20588 (May 6, 1991) ("Sparklers").

[12] See 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").

[13] 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).

[14] See Sparklers, 56 FR at 20589.

[15] See Letter from RZBC to the Department, regarding "Citric Acid and Citrate Salt from the People's Republic of China: Section A Response," dated September 7, 2012 ("Section A Response"), at A-2.

export licensing requirements from 2009 to 2012.[16] However, the Department's separate rate test is generally not concerned with macroeconomic/border-type controls, e.g., export licenses and quotas and minimum export prices ("EPs"), particularly if these controls are imposed to prevent dumping.[17] Instead, the test focuses on controls over the investment, pricing, and output decision-making process at the individual firm level. In this instance, RZBC I&E has demonstrated that its export activity decisions are made at the individual firm level. Further, record information does not indicate that export licensing requirements affect RZBC I&E at the individual firm level.

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 EPs 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.[18]

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 over export activities which would preclude the Department from assigning separate rates. For RZBC I&E, we determine that the evidence on the record supports a preliminary finding of de facto absence of government control based on record statements and supporting documentation showing the following: (1) the respondent sets its own EPs independent of the government and without the approval of a government authority; (2) the respondent retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; (3) the respondent has the authority to negotiate and sign contracts and other agreements; and (4) the respondent has autonomy from the government regarding the selection of management.[19] RZBC reported that RZBC I&E served as an executive director of the Citric Acid Branch of the China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters ("CCCMC"), which the Department treated as a non-governmental association in a prior case.[20] The Department notes that Petitioners have alleged that the PRC government regulates exports of certain commodities, including citric acid through the CCCMC.[21] The Department has reviewed the record in light of Petitioners' allegations and finds no indication that, during the POR, either

[16] See Letter from Petitioners to the Department regarding, "Citric Acid And Certain Citrate Salts From The People's Republic Of China: Comments On The Section A Questionnaire Response Of RZBC," dated September 25, 2012 at Exhibits 35 to 52.
[17] See Import Administration Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries (April 5, 2005).
[18] 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).
[19] See Section A Response at A-2.
[20] See Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, 72 FR 39053 (July 17, 2007), unchanged in Chlorinated Isocyanurates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, January 2, 2008 (73 FR 159).
[21] See Letter from Petitioners to the Department regarding, "Citric Acid And Certain Citrate Salts From The People's Republic Of China: Petitioners' Pre-Preliminary Comments," dated April 29, 2013 at 7-14.

the PRC government or the CCCMC regulated RZBC I&E's EPs during the POR. Further, there is no evidence that the PRC government of CCCMC controlled the disposition of RZBC I&E's profits or the financing of its losses, restricted its authority to enter into agreements, or played any role in its selection of management. Accordingly, there is no record of de facto control of RZBC I&E by the PRC government.

The evidence placed on the record of this review by RZBC demonstrates an absence of de jure and de facto government control with respect the company's exports of the merchandise under review, in accordance with the criteria identified in Sparklers and Silicon Carbide. Therefore, we are preliminarily granting RZBC I&E a separate rate.

Surrogate Country and Surrogate Value Data

When the Department investigates imports from a NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production ("FOP"), valued in a surrogate ME country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOP, the Department shall utilize, to the extent possible, the prices or costs of FOP in one or more ME countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.[22] The Department determined that Colombia, Costa Rica, Indonesia, the Philippines, South Africa, and Thailand are countries whose per capita gross national incomes are comparable to the PRC in terms of economic development.

In its November 19, 2012, submission, RZBC proposed that the Department select Indonesia as the surrogate country in this review. Specifically, RZBC stated that selecting Indonesia is consistent with the Department's decisions in the original investigation and first and second administrative reviews. Petitioners did not comment on surrogate country selection. However, the Department notes that Petitioners suggested surrogate values ("SV") are primarily derived from Indonesian data.

Economic Comparability

As explained in our letter to interested parties, Colombia, Costa Rica, Indonesia, the Philippines, South Africa, and Thailand are all comparable to the PRC in terms of economic development.[23] Accordingly, unless we find that all of the countries determined to be equally economically comparable are not significant producers of comparable merchandise, do not provide a reliable source of publicly available surrogate data, or are unsuitable for use for other reasons, or we find that another equally comparable country is an appropriate surrogate, we will rely on data from one of these countries. Therefore, we consider all six countries as having met this prong of the surrogate country selection criteria.

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[22] See Import Administration Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) ("Policy Bulletin").

[23] See Letter from the Department to Interested Parties regarding, "Third Antidumping Duty Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China: Surrogate Country List," dated November 5, 2012.

Significant Producers of Identical or Comparable Merchandise

Section 773(c)(4)(B) of the Act requires the Department to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor the Department's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources such as the Policy Bulletin for guidance on defining comparable merchandise. The Policy Bulletin states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."[24] Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.[25] Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the industry.[26] In this instance, Indonesia is a significant producer of identical merchandise.[27]

Data Availability

When evaluating SV data, the Department considers several factors including whether the SV is publicly available, contemporaneous with the POR, represents a broad-market average, from an approved surrogate country, tax and duty-exclusive, and specific to the input. There is no hierarchy among these criteria. It is the Department's practice to carefully consider the available evidence in light of the particular facts of each industry when undertaking its analysis.[28]

Consistent with the original investigation, and the first and second administrative reviews, the Department finds Indonesia to be a reliable source for SVs because Indonesia is at a comparable level of economic development pursuant to 773(c)(4) of the Act, is a significant producer of identical and comparable merchandise, and has publicly available and reliable data. Given the above facts, the Department has selected Indonesia as the primary surrogate country for this review. A detailed explanation of the SVs is provided below in the "Normal Value" section of this notice.

For these reasons, the Department will rely on Indonesia as the surrogate country for this review because Indonesia is economically comparable to the PRC, is a significant producer of subject merchandise, and has reliable and usable SV data.

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[24] See Policy Bulletin, at 2.

[25] The Policy Bulletin also states that "if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise." See id., at note 6.

[26] See Sebacic Acid from the People's Republic of China; Final Results of Antidumping Duty Administrative Review, 62 FR 65674, 65675-76 (December 15, 1997) ("{T}o impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute.").

[27] Parties did not submit information pertaining to other potential surrogate countries in this review.

[28] See Policy Bulletin.

Fair Value Comparisons

To determine whether RZBC I&E's sales of subject merchandise were made at less than NV, we compared EP to NV, as described in the "Export Price" and "Normal Value" sections below.[29]

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average EPs (or constructed export prices ("CEPs")) (the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In AD investigations, the Department examines whether to use the average-to-transaction method as an alternative comparison method using an analysis consistent with section 777A(d)(l)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in AD investigations.[30] In recent investigations, the Department applied a "differential pricing" analysis to determine whether application of average-to-transaction comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.[31] The Department finds the differential pricing analysis used in those recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the

[29] In these preliminary results, the Department applied the assessment rate calculation method adopted in Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification, 77 FR 8101 (February 14, 2012) ("Final Modification for Reviews"). In particular, the Department compared monthly weighted-average EPs with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin; see also section 773(a)(1)(B)(ii) of the Act; 19 CFR 351.414(c)(1) and (d).

[30] See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1.

[31] See Frontseating Service Valves From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 27954 (May 13, 2013); see also Certain Steel Threaded Rod From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 21101 (April 9, 2013).

reported customer names. Regions are defined using the reported destination code (i.e., city name, zip code, etc.) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region and time period, that the Department uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen's *d* test is applied when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen's *d* coefficient is calculated to evaluate the extent to which the net prices to a particular purchaser, region or time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant if the calculated Cohen's d coefficient is equal to or exceeds the large (i.e., 0.8) threshold.

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test account for 66 percent or more of the value of total sales, then the identified pattern of EPs that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen's *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage (i.e., the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of EPs that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent relative change in the weighted-average dumping margin between the average-to-average method and the appropriate alternative method where both rates are above the de minimis threshold, or 2) the resulting weighted-average dumping margin moves across the de minimis threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

B. Results of the Differential Pricing Analysis

For RZBC I&E, the results of the differential pricing analysis demonstrate that 30.8 percent of RZBC I&E's export sales pass the Cohen's *d* test. As such, the Department finds that these results do not support consideration of an alternative to the average-to-average method. Accordingly, the Department has determined to use the average-to-average method in making comparisons of EP and NV for RZBC I&E.[32]

U.S. Price

Export Pricc

In accordance with section 772(a) of the Act, EP is "the price at which subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States," as adjusted under section 772(c) of the Act. We used the EP methodology, in accordance with section 772(a) of the Act, for sales in which the subject merchandise was first sold prior to importation by the exporter outside the United States directly to an unaffiliated purchaser in the United States and for sales in which CEP was not otherwise indicated. We find that all of RZBC I&E's sales in this review are EP sales.

We based EP on the price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight, marine insurance, and domestic and ME brokerage and handling. We valued brokerage and handling using a price list of export procedures necessary to export a standardized cargo of goods in Indonesia. The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods

[32] In these preliminary results, the Department applied the weighted-average dumping margin calculation method adopted in Final Modification for Reviews. In particular, the Department compared monthly weighted-average EPs with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

by ocean transport in Indonesia as reported in "Doing Business 2012: Indonesia" published by the World Bank.[33]

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on the FOP because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies. Under section 773(c)(3) of the Act, FOP include but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; and (3) representative capital costs. The Department used FOP reported by RZBC for materials, labor, packing and by-products.

Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on FOP reported by RZBC for the POR. In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to find an appropriate SV to value FOP. However, when a producer sources an input from an ME and pays for it in an ME currency, the Department normally will value the factor using the actual price paid for the input.[34] To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available SVs (except as discussed below). In selecting SVs, we considered the quality, specificity, and contemporaneity of the data.[35] As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to import SVs the 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, where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in Sigma Corp.[36]

For the preliminary results, except where noted below, we used data from the Indonesian and Thai import statistics in the Global Trade Atlas ("GTA") and other publicly available Indonesian and Thai sources in order to calculate SVs for RZBC I&E's FOPs (i.e., direct materials and packing materials) and certain movement expenses. Because Indonesia is the primary surrogate country, we used Indonesian data and applied Thai data only for SVs for which there were no

[33] See Memorandum to the File from Krisha Hill and Drew Jackson to Robert Bolling, regarding "Preliminary Results of the Third Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China: Surrogate Value Memorandum," dated June 3, 2013 ("Surrogate Value Memorandum").

[34] See 19 CFR 351.408(c)(1); see also Shakeproof Assembly Components Div of III Tool Works v. United States, 268 F. 3d 1376, 1382-1383 (Fed. Cir. 2001) (affirming the Department's use of market-based prices to value certain FOPs).

[35] See, e.g., Fresh Garlic From the People's Republic of China: Final Results of Antidumping Duty New Shipper Review, 67 FR 72139 (December 4, 2002), and accompanying Issues and Decision Memorandum at Comment 6; and Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms From the People's Republic of China, 66 FR 31204 (June 11, 2001), and accompanying Issues and Decision Memorandum at Comment 5.

[36] See Sigma Corp. v. United States, 117 F.3d 1401, 1407-08 (Fed. Cir. 1997) ("Sigma Corp.").

usable Indonesian data. As noted above, when selecting the best available information for valuing FOP, the Department's practice is to select, to the extent practicable, SVs which are non-export average values, most contemporaneous with the POR, product-specific, and tax-exclusive.[37] The record shows that Indonesian and Thai import statistics obtained through GTA are contemporaneous with the POR, product-specific, and tax-exclusive.[38] In those instances where we could not obtain publicly available information contemporaneous to the POR with which to value factors, we adjusted the SVs using, where appropriate, the Indonesian Wholesale Price Index, as published by the Organization for Economic Cooperation and Development.

In accordance with legislative history, the Department continues to apply its long-standing practice of disregarding SVs if it has a reason to believe or suspect the source data may be subsidized.[39] In this regard, the Department has previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea, and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.[40] Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, the Department finds that it is reasonable to infer that all exporters from India, Indonesia, South Korea and Thailand may have benefitted from these subsidies. Therefore, the Department has not used prices from India, Indonesia, South Korea and Thailand in calculating the import-based SVs.

Additionally, we disregarded prices from NME countries.[41] Finally, imports that were labeled as originating from an "unspecified" country were excluded from the average value, because the Department could not be certain that they were not from either an NME country or a country with generally available export subsidies.[42]

[37] See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam, 69 FR 42672, 42682 (July 16, 2004), unchanged in Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam, 69 FR 71005 (December 8, 2004).

[38] See Surrogate Value Memorandum.

[39] See Omnibus Trade and Competitiveness Act of 1988, Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) at 590.

[40] See, e.g., Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order, 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at 4-5; Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review, 70 FR 45692 (August 8, 2005), and accompanying Issues and Decision Memorandum at 4; Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19-20; Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand, 66 FR 50410 (October 3, 2001), and accompanying Issues and Decision Memorandum at 23.

[41] See, e.g., Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final determination, 74 FR 9591, 9600 (March 5, 2009), unchanged in Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 74 FR 36656 (July 24, 2009) and Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Notice of Antidumping Duty Order, 74 FR 46971 (September 14, 2009).

[42] See id.

We valued truck freight expenses using a price list for domestic shipments from the Indonesian shipping company, PT Mantap Abiah Abadi, which is the only truck freight information available on the record.

To calculate the labor input, we based our calculation provided by the Department in Labor Methodologies, which recommends using single-country labor cost and compensation data from Chapter 6A of the International Labor Organization ("ILO").[43] However, in this case, the Department notes that Chapter 6A does not contain recent Indonesian labor data from the ILO Yearbook. Therefore, for the preliminary results of this administrative review, the Department is valuing labor using an Indonesian industry-specific wage rate based on labor cost and compensation data from Chapter 5B of the ILO. The Department calculated an Indonesian industry-specific wage rate of 8,798.52 Rupiah per hour for the preliminary results. Specifically, the Department has calculated the wage rate using data provided to the ILO under Sub-Classification 24 of the ISIC-Revision 3-D standard, and inflated this wage rate using the Indonesian Consumer Price Index as published in the International Monetary Fund's International Financial Statistics. The Department finds the description under Sub-Classification 24 of the ISIC-Revision 3-D ("Manufacture of Chemicals and Chemical Products") to be the best available wage rate SV source on the record because it is specific and derived from industries that produce merchandise comparable to the subject merchandise. A full description of the industry-specific wage rate calculation methodology is provided in the Surrogate Value Memorandum.[44]

The record includes one set of audited financial statements for the year ending December 2011 of PT Budi Acid Jaya TBK, a producer of comparable merchandise from Indonesia.[45] We calculated financial ratios for factory overhead, selling, general, and administrative expenses, and profit from these financial statements. Since we were unable to segregate and exclude energy costs from the calculation of the surrogate financial ratios, we have disregarded RZBC I&E's energy inputs (electricity, coal and steam) in the calculation of NV, in order to avoid double-counting energy costs that have necessarily been captured in the surrogate financial ratios, in the preliminary results.[46] These financial statements are the only set of statements on the record for the preliminary results and are the statements that the Department has relied on since the investigation of citric acid from the PRC. The Department may consider other publicly available financial statements for the final results, as appropriate.

RZBC reported that it recovered four by-products (i.e., high protein scrap, corn feed, calcium sulfate, and sludge) in its production of subject merchandise; RZBC claims that each has commercial value. Because RZBC has not provided evidence that calcium sulfate and sludge

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[43] See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011) ("Labor Methodologies").
[44] See Surrogate Value Memorandum.
[45] See Surrogate Value Memorandum; see also Memorandum to the File from Krisha Hill and Drew Jackson to Robert Bolling, regarding "Third Administrative Review of the Antidumping Duty Order on Citric Acid and Certain Citrate Salts from the People's Republic of China: Analysis of the Preliminary Results Margin Calculation for RZBC Co., Ltd., RZBC Import & Export Co., Ltd., and RZBC (Juxian) Co., Ltd.," dated June 3, 2013 ("Preliminary Analysis Memo").
[46] See Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value, 74 FR 16838 (April 13, 2009), and accompanying Issues and Decision Memorandum, at Comment 2.

sold during the POR were generated during the POR, we have not granted a by-product offset these items. Further, based on evidence on the record we have determined that high protein scrap should be treated as a co-product with citric acid.[47] Accordingly, we have only granted a by-product offset for RZBC's corn feed quantity, and valued corn feed using Indonesian GTA data.

In determining whether high protein scrap is more appropriately classified as a co-product or by-product we relied on the fact that the net realizable value ("NRV") of high protein scrap is significant in relation to the NRV of all products that result from the joint production process. Further, we note that in its normal books and records, RZBC does not treat the high protein scrap as a by-product, rather it tracks its production and assigns a cost to the high protein scrap for inventory valuation purposes and records sales of the high protein scrap as main income. Both of these points support the treatment of high protein scrap as a co-product of the citric acid production process for RZBC.

As stated above, we have determined that high protein scrap is a co-product in these preliminary results. Accordingly, we have removed factors attributable to the production of high protein scrap from our margin calculation. Consistent with the methodology employed in past cases, we have allocated the factor inputs based on the net realizable surrogate values (i.e., sale values less further processing costs) for this product and citric acid.[48] The Department's treatment of high protein scrap is consistent with both the Department's practice and generally accepted allocation methodologies in cost accounting textbooks.[49] To value high protein scrap and citric acid, we used Indonesian surrogate data are reported in Statistics Indonesia, as provided by the Government of Indonesia, which are available through GTA.[50]

Export Subsidy Adjustment

Section 772(c)(1)(C) of the Act states that U.S. price "shall be increased by the amount of any countervailing duty imposed on the subject merchandise . . . to offset an export subsidy."[51] The Department determined in its preliminary results of the companion countervailing duty ("CVD") administrative review that RZBC I&E's merchandise benefited from an export subsidy. Therefore, we have increased RZBC I&E's U.S. price for CVDs imposed attributable to the export subsidy, where appropriate.[52]

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[47] See Preliminary Analysis Memo.

[48] See Sebacic Acid From The People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Notice of Partial Recision, 69 FR 47409 (August 8, 2004); see also Sebacic Acid From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 69 FR 75303 (December 16, 2012).

[49] See Cost Accounting: A Managerial Emphasis (1991) at pages 528-533.

[50] See Preliminary Analysis Memo.

[51] See, e.g., Carbazole Violet Pigment 23 from India: Final Results of Antidumping Duty Administrative Review, 75 FR 38076, 38077 (July 1, 2010), and accompanying Issues and Decision Memorandum at Comment 1.

[52] See Preliminary Analysis Memo.

Section 777A(f) of the Act

In applying section 777A(f) of the Act, the Department has examined (1) whether a countervailable subsidy (other than an export subsidy) has been provided with respect to a class or kind of merchandise, (2) whether such countervailable subsidy has been demonstrated to have reduced the average price of imports of the class or kind of merchandise during the relevant period, and (3) whether the Department can reasonably estimate the extent to which that countervailable subsidy, in combination with the use of NV determined pursuant to section 773(c) of the Act, has increased the weighted average dumping margin for the class or kind of merchandise.[53] For a subsidy meeting these criteria, the statute requires the Department to reduce the AD by the estimated amount of the increase in the weighted average dumping margin subject to a specified cap.[54] In conducting this analysis, the Department has not concluded that concurrent application of NME ADs and CVDs necessarily and automatically results in overlapping remedies. Rather, a finding that there is an overlap in remedies, and any resulting adjustment, is based on a case-by-case analysis of the totality of facts on the administrative record for that segment of the proceeding as required by the statute. As a result of our analysis, the Department is preliminarily not making adjustments pursuant to section 777A(f) of the Act to RZBC I&E's AD cash deposit rate.

Since the Department has recently started conducting an analysis under section 777A(f) of the Act,[55] the Department is continuing to refine its practice in applying the new law. These preliminary results are based on information on the administrative record provided by RZBC in this administrative review. Specifically, RZBC stated that although certain input and electricity subsidies affect their cost of manufacturing ("COM"), the U.S. price is already artificially high due to the existence of the AD and CVD orders on citric acid. Therefore, any changes to COM as a result of the subsidies will basically have no impact on the price of subject merchandise sold to the United States.[56] With respect to cost-linked price changes, RZBC has not demonstrated a link between its COM and U.S. prices. Further, RZBC identified one input subsidy program under investigation in the concurrent CVD investigation which may impact COM; however, RZBC did not demonstrate that corresponding changes to COM affects its U.S. price.[57] The Department's questionnaire indicated that the relevant time period must include the POR but may extend beyond the POR as necessary to answer the questions in full.[58] Because RZBC has not demonstrated that its subsidies which impact COM subsequently affect U.S. price, the Department is not applying an adjustment under section 777A(f) of the Act in these preliminary results. The Department continues to develop and refine its methodological approach to

[53] See section 777A(f)(1)(A)-(C) of the Act.
[54] See section 777A(f)(1)-(2) of the Act.
[55] See Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act: Certain New Pneumatic Off-the-Road Tires; Circular Welded Carbon Quality Steel Pipe; Laminated Woven Sacks; and Light-Walled Rectangular Pipe and Tube From the People's Republic of China, 77 FR 52683, 52686 (August 30, 2012); Drawn Stainless Steel Sinks From the People's Republic of China: Investigation, Final Determination, 78 FR 13019 (February 26, 2013), and accompanying Issues and Decision Memorandum at Issue 1.
[56] See Letter from RZBC to the Department regarding, "Citric Acid and Citrate Salt from the People's Republic of China: Double Remedy Questionnaire Response" dated March 11, 2013. ("Domestic Subsidy Response"), at 3-4.
[57] See Domestic Subsidy Response, at 13.
[58] See Letter the Department to RZBC regarding, "Third Administrative Review of the Antidumping Duty Order on Citric Acid and Certain Citrate Salts from the People's Republic of China: Double Remedies Supplemental Questionnaire," dated January 29, 2013.

addressing domestic subsidy pass-through rates under section 777A(f) of the Act and may issue follow-up requests for information from the interested parties after the publication of these preliminary results to supplement and clarify certain record information for purposes of the final results.

Currency Conversion

Where necessary, 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.

We will issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

CONCLUSION

We recommend applying the above methodology for these preliminary results.

✓
Agree

Disagree

Paul Piquado
Assistant Secretary
for Import Administration

3 JUNE 2013
(Date)