

***RZBC Group Shareholding Co., Ltd., RZBC Co., Ltd., RZBC Imp. & Exp. Co., Ltd., and
RZBC (Juxian) Co., Ltd. v. United States***
Court No. 14-00041; Slip Op. 15-83 (CIT 2015)

FINAL RESULTS OF REDETERMINATION PURSUANT TO COURT REMAND

I. SUMMARY

The Department of Commerce (the Department) prepared these final results of redetermination pursuant to the remand order of the U.S. Court of International Trade (CIT or the Court), issued on August 5, 2015, in *RZBC Group Shareholding Co., Ltd., RZBC Co., Ltd., RZBC Imp. & Exp. Co., Ltd., and RZBC (Juxian) Co., Ltd. v. United States*, Court No. 14-00041; Slip Op. 15-83 (CIT 2015) (*Opinion and Remand Order*). These final results concern *Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2011, 79 FR 108 (January 2, 2014) (Final Results)* and the accompanying Issues and Decision Memorandum (Final IDM).

In response to the Court's holdings in the *Opinion and Remand Order*, the Department reopened and placed on the record in this remand proceeding world benchmark information for steam coal, sulfuric acid, and calcium carbonate. Interested parties were requested to comment and/or submit rebuttal information.¹ RZBC Group Shareholding Co., Ltd., RZBC Co., Ltd., RZBC Imp. & Exp. Co., Ltd., and RZBC (Juxian) Co., Ltd. (collectively, RZBC Companies) submitted rebuttal information and comments.² In the draft remand results, we calculated

¹ See Department's Letter to All Parties to Open the Record (September 25, 2015).

² See RZBC Companies' Submission of Comments and Other Factual Information (October 2, 2015).

weighted-average monthly world benchmarks for sulfuric acid and calcium carbonate.³ For steam coal, we weight-averaged the weightable data⁴ on the record while continuing to utilize the data from other unweightable⁵ sources. The final *ad valorem* rate in these final results of redetermination is 18.28 percent during the period of review (POR). Because the Department received comments from interested parties agreeing with the draft remand results, and absent any other arguments to the contrary in this remand proceeding, these final remand results are unchanged from the draft remand results.⁶

II. REMANDED ISSUE

A. Background

In the *Final Results*, the Department elected to simple-average all available data for steam coal, sulfuric acid, and calcium carbonate because they were not reported in a uniform manner.⁷ The Court remanded for the Department to reevaluate the world benchmarks for steam coal, sulfuric acid, and calcium carbonate subsidies. Specifically, the Court instructed the Department to consider whether to calculate world-average prices using weighted or simple-averages in light of small-quantity, high-price transactions in the underlying data, and to comply with the mandate to measure the adequacy of remuneration in light of prevailing market conditions in the country subject to review. The Court also directed the Department to recalculate respondents' countervailing duty rate consistent with any reevaluated benchmark prices for steam coal, sulfuric acid, and calcium carbonate.

³ See Draft Results of Redetermination Pursuant to Court Remand: RZBC Group Shareholding Co., Ltd., RZBC Co., Ltd., RZBC Imp. & Exp. Co., Ltd., and RZBC (Juxian) Co., Ltd. v. United States Court No. 14-00041; Slip Op. 15-83 (CIT 2015), dated November 4, 2015 (Draft Remand Results).

⁴ Weightable data contains benchmark prices and quantity.

⁵ Unweightable data contains only benchmark prices.

⁶ See Letter from RZBC Companies, "Citric Acid and Citrate Salts from People's Republic of China: Comments on Draft Remand Redetermination for Court No. 14-00041," (November 12, 2015) (RZBC Comments).

⁷ See Final IDM at Comment 13E.

On November 4, 2015, the Department issued draft remand results in which, consistent with the Court's *Opinion and Remand Order*, we recalculated respondents' countervailing duty rate. Specifically, after reopening the record, we calculated weighted-average monthly world benchmarks for sulfuric acid and calcium carbonate, and, for steam coal, we weight-averaged the weightable data on the record while continuing to utilize the data from other unweightable sources in a manner that minimizes the potential for distortion from outlier data points.

On November 12, 2015, RZBC Companies commented that they support the Department's draft remand results.⁸ Petitioners did not comment on the draft remand results.⁹ Because RZBC Companies' comments support the Department's draft remand results, and absent other comments by parties on the record or reasons to revisit our prior analysis, the Department's final results of redetermination are unchanged from the draft remand results.

B. Discussion

Background

The Court held that for sulfuric acid and calcium carbonate, for which datasets contained both price and quantity, the choice to use simple-averages "caused real distortions in the benchmarks the Department created."¹⁰ The Court remanded this issue for the Department to reconsider whether to calculate the sulfuric acid and calcium carbonate benchmarks with weighted-averages. The Court also remanded for the Department to revisit the benchmark for steam coal.

⁸ See RZBC Comments.

⁹ Petitioners are Archer Daniels Midland Company, Cargill, Inc., and Tate & Lyle Ingredients Americas.

¹⁰ See *Opinion and Remand Order* at 34.

Analysis

Sulfuric Acid and Calcium Carbonate

As an initial matter, we note that the Tariff Act of 1930, as amended (the Act) and the Department's regulations do not specify which approach to take when we derive an average for benchmarking purposes and that, by necessity, the Department exercises discretion in determining an appropriate approach given the facts in any given case.¹¹ When deriving an average value from available data to derive a "market-determined price," the Department takes into account, where possible and depending on the particular facts of a case, the source, nature and completeness of the available data.¹² This is a case-by-case assessment.

The Court was correct in noting that for sulfuric acid, Global Trade Atlas (GTA) quantity and value data were on the record of the underlying review. However, for calcium carbonate (also referred to as limestone flux), while Petitioners submitted the AUVs in electronic format, they submitted the underlying quantity and value information in hard copy only.¹³ RZBC Companies submitted data for calcium carbonate, but they were on an annual basis, and thus did not conform to the monthly price format utilized by the Department for its benchmarks.¹⁴ With regard to steam coal, parties submitted GTA quantity and value data, in addition to AUVs sourced from *IMF* and *Platts*. Thus, we reopened the record and placed monthly GTA quantity and value data for all three inputs on the record in order to have comprehensive country

¹¹ Section 771(5)(E) of the Act, as the Court notes, requires the Department to take into account "prevailing market conditions," which include price, quality, availability, marketability, transportation, and other conditions of purchase or sale. The relevant regulation, 19 CFR 351.511(a)(2)(ii) simply states that if "there is more than one commercially available world market price, the Secretary will average such prices to the extent practicable, making due allowance for factors affecting comparability."

¹² See *Citric Acid and Certain Citrate Salts: Final Results of Countervailing Duty Administrative Review; 2012*, 79 FR 78799 (December 31, 2014) and accompanying Issues and Decision Memorandum at Comment 17.

¹³ See Petitioners' New Subsidy Allegations (NSA) Benchmark Pricing (March 18, 2013) at Exhibit 4; see also Petitioners' Submission of Benchmark Data in Excel Format (May 3, 2013) at Tab 10.

¹⁴ See RZBC Companies' NSA Benchmarks (March 18, 2013) at Attachment 1; see also RZBC Companies' Submission of Electronic Benchmarks at Attachment 1 Part 1 through 6.

coverage.¹⁵ We provided parties the opportunity to submit rebuttal information and comment. RZBC Companies submitted rebuttal information.¹⁶ Petitioners did not submit any comment.

In these final results, for sulfuric acid and calcium carbonate, because the available benchmark sources are composed solely of weightable data, the Department merged all monthly export GTA quantity and value data from all parties (deleting duplicate data) and calculated revised world-average benchmark prices using weighted-averages of those data.¹⁷ In accordance with the Court's holding, we recalculated RZBC Companies' countervailing duty rate based on those revised benchmarks.

Steam Coal

In accordance with the Court's holding, we reevaluated the world benchmark for steam coal. Based on the facts of this particular case, we are weight averaging the GTA data on the record while continuing to utilize the data from other non-GTA sources in a manner that minimizes the potential for distortion from outlier data points. Specifically, we first merged all monthly export GTA quantity and value data from all parties (deleting duplicate data).¹⁸ Then, we calculated simple-averages across data sources per country to determine an average unit value for each country. Then, we weight averaged those country-specific unit prices to create single monthly weighted-average benchmark prices for each input.

¹⁵ See Department's Letter to All Parties to Open the Record (September 25, 2015).

¹⁶ See RZBC Companies' Submission of Comments and Other Factual Information (October 2, 2015).

¹⁷ We note that in our Letter to All Parties to Open the Record, the Department inadvertently placed only import GTA quantity and value information on the record for sulfuric acid and steam coal. We placed only export information on the record for calcium carbonate. RZBC Companies submitted both import and export GTA quantity and value data for all three inputs in its Other Factual Information submission on October 2, 2015. We excluded all import data from all calculations because, as we have stated in prior investigations, it is not readily apparent whether import prices are inclusive of freight and import taxes and duties and whether and how the Department should adjust for such costs. See *Utility Scale Wind Towers From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 75978 (December 26, 2012) and accompanying Issues and Decision Memorandum at Comment 15. We are using only export data from the record. See Draft Remand Results Calculation Memorandum for specific data used, unchanged for the Final Results Redetermination.

¹⁸ We excluded the Department's import steam coal GTA data for the reasons cited above.

Thus, to create the steam coal monthly benchmark prices, we used weightable data from GTA and the unweightable data from the *IMF* and *Platts*. For example, all three data sources contained prices for Australia; GTA and *Platts* reported prices for Columbia, Poland, Russia, and South Korea; and GTA reported data for additional countries. Therefore, to utilize all data sources (e.g., for the January 2011 benchmark), we first simple-averaged the January unit prices for Australia from GTA with the prices reported in the *IMF* and *Platts* data. We followed the same process for the other countries' data reported in each source. Finally, we weight averaged the unit prices from Australia, Columbia, Poland, Russia, South Korea, and all other countries represented in the GTA data using the GTA quantity data to create one weighted-average world market price for steam coal in January 2011.

By weight averaging the GTA unit prices in this manner, and by continuing to include the other, non-GTA data on the record, we maintain the most robust world market price possible that reflects the spectrum of prices available under market principles. We also account for the quantities, to the extent they are available on the record. In accordance with the Court's holding, we recalculated RZBC Companies' countervailing duty rate using the resulting revised benchmarks.

To calculate the benefit, we calculated the difference between the delivered world market price and the price that the companies paid for steam coal, sulfuric acid, and calcium carbonate, including delivery charges. We next divided the sum of the price differentials by the total consolidated sales of RZBC Co., RZBC Juxian, and RZBC IE (excluding inter-company sales). On this basis, we determine that the RZBC Companies received a countervailable subsidy of 0.86 percent *ad valorem* for steam coal, 2.37 per cent *ad valorem* for sulfuric acid, and 8.77 percent *ad valorem* for calcium carbonate during the POR.

III. CONCLUSION

In the draft remand results, which are unchanged in these final results of redetermination, the Department recalculated the benchmark prices for steam coal, sulfuric acid, and calcium carbonate and the resulting *ad valorem* countervailing duty rate for RZBC Companies. The total *ad valorem* rate for these final results of redetermination is 18.28 percent during the POR.



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

3 DECEMBER 2015

Date