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**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-570-937]

**Citric Acid and Certain Citrate Salts  
from the People's Republic of China:  
Preliminary Determination of Sales at  
Less Than Fair Value and  
Postponement of Final Determination**

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

**EFFECTIVE DATE:** November 20, 2008.

**SUMMARY:** We preliminarily determine that citric acid and certain citrate salts ("citric acid") from the People's Republic of China ("PRC") are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are

shown in the “Preliminary Determination” section of this notice. Pursuant to requests from interested parties, we are postponing the final determination and extending the provisional measures from a four-month period to not more than six months. Accordingly, we will make our final determination not later than 135 days after publication of the preliminary determination.

**FOR FURTHER INFORMATION CONTACT:**

Marin Weaver or Andrea Staebler Berton, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482–2336 or 482–4037, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On April 14, 2008, the Department of Commerce (“the Department”) received a petition concerning imports of citric acid and certain citrate salts from the People’s Republic of China (“PRC Petition”) filed in proper form by Archer Daniels Midland Company, Cargill, Incorporated, and Tate & Lyle Americas, Inc. (collectively, “Petitioners”). The Department of Commerce (“the Department”) initiated this investigation on May 13, 2008. See *Citric acid and Certain Citrate Salts from Canada and the People’s Republic of China: Initiation of Antidumping Duty Investigations* (“*Notice of Initiation*”), 73 FR 27492 (May 13, 2008). In the Notice of Initiation, the Department explained that, in order to demonstrate separate–rate eligibility, entities were required to submit a separate–rate application (“SRA”) not later than sixty days from the publication of the *Notice of Initiation*. The deadlines and requirements for submitting certifications and SRAs applied equally to NME–owned firms, wholly foreign–owned firms, and foreign sellers that purchase the subject merchandise and export it to the United States. The SRA for this investigation was posted on the Import Administration web site on May 13, 2008; thus, the due date for submitting a SRA was July 13, 2008. See <http://ia.ita.doc.gov/ia-highlights-and-news.html>.

On May 13, 2008, the Department requested comments from interested parties regarding the appropriate physical characteristics of citric acid and certain citrate salts to be reported in response to the Department’s antidumping questionnaires. See *Notice of Initiation*. On June 2, 11, and 13,

2008, the Department received comments on the proposed product characteristics criteria and matching hierarchy, respectively, from TTCA Co., Ltd., (a.k.a. Shandong TTCA Biochemistry Co., Ltd.) (“TTCA”), a PRC exporter and mandatory respondent, Petitioners, and Jungbunzlauer Technology GMBH & Co.KG, a Canadian exporter and respondent in the LTFV investigation of citric acid from Canada.

On June 11, 2008, the United States International Trade Commission (“ITC”) published its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of citric acid from the PRC. See *Investigation Nos. 701 TA 456 and 731 TA 1151 1152 (Preliminary), Citric Acid and Certain Citrate Salts from Canada and China* (“*ITC Preliminary*”), 73 FR 33115 (June 11, 2008).

On June 23, 2008, the Department issued quantity and value (“Q&V”) questionnaires to over 100 companies, which Petitioners identified in the PRC Petition as potential producers and/or exporters of citric acid from the PRC.<sup>1</sup> On May 23, 2008, and on June 5, 2008, the Department extended the deadline for filing Q&V responses until June 26, 2008. From May 22, 2008 through July 7, 2008,<sup>2</sup> the Department received Q&V responses from 17 companies<sup>3</sup> that exported merchandise under

<sup>1</sup> See Volume I of the “Petition for the Imposition of Antidumping and Countervailing Duties on Citric Acid and Certain Citrate Salts from the People’s Republic of China” (April 14, 2008), at Exhibit I-8.

<sup>2</sup> The Department accepted the Q&V response submitted by Wuxi Harvest Imp & Exp Trdg (“Wuxi Harvest”) on July 7, 2008.

<sup>3</sup> Three companies: Shandong Yinfeng Chemical Industry Group Co., Ltd., Dis Company, and Hangzhou Apex Import & Export, reported that they did not export the merchandise under investigation to the United States during the POI. The 14 companies who reported shipments of Citric Acid are: A.H.A. International (“A.H.A.”); Anhui BBBCA Biochemical Co., Ltd. (“BBBCA Biochemical”); China Tianyu Chemical Co., Ltd.; International Group Jiangsu Native Produce IMPT & EXP Co., Ltd. (“High Hope”); Huangshi Xinghua Biochemical Co., Ltd. (“Xinghua Biochemical”); Laiwu Taihe Biochemistry Co., Ltd. (“Laiwu Taihe Biochemistry”); Lianyungang Shuren Scientific Creation Import & Export Co., Ltd. (“Shuren Scientific”); Penglai Marine Bio-Technology Co., Ltd. (“Penglai Marine”); RZBC Imp. & Exp. Co., Ltd; TTCA; Shihezi City Changyun Biochemical Co., Ltd. (“Changyun Biochemical”); Weifang Ensign Industry Co., Ltd. (“Weifang Ensign”); Wuxi Harvest Imp. & Exp. Co.; and Yixing Union Biochemical Co., Ltd. (“Yixing Union”). Yixing Union was not identified in the petition, thus, the Department did not send it a Q&V questionnaire. However, Yixing Union sent the Department a Q&V response.

investigation to the United States during the POI.

From July 1, 2008 through July 15, 2008,<sup>4</sup> the Department received SRAs from 10 exporters of Chinese citric acid: High Hope, Penglai Marine, A.H.A., Weifang Ensign, Shuren Scientific, BBBCA Biochemical, RZBC Group Ltd.<sup>5</sup>, Laiwu Taihe Biochemistry, Xinghua Biochemical, and Changyun Biochemical. The Department issued supplemental questionnaires and received timely responses from the following separate–rate applicants: High Hope, Penglai Marine, Shuren Scientific, BBBCA Biochemical, Laiwu Taihe Biochemistry, and Xinghua Biochemical. In addition the Department received an SRA from TTCA on July 15, 2008. The Department granted an extension of time for Yixing Union to file its SRA and on July 21, 2008, it timely filed its SRA. The Department granted an extension for Lianyungang JF International Trade Co., Ltd. (“JF International”) to file an SRA. The Department received JF International’s SRA on October 14, 2008.

On July 9, 2008, the Department determined that India, Thailand, Indonesia, the Philippines, and Columbia are countries comparable to the PRC in terms of economic development. See Memorandum entitled “Antidumping Duty Investigation of Citric Acid and Citrate Salts (“Citric Acid”) from the People’s Republic of China (PRC): Request for a List of Surrogate Countries,” (July 9, 2008) (“Office of Policy Surrogate Countries Memorandum”).

On August 5, 2008, the Department issued its respondent selection memorandum, selecting TTCA and Yixing Union as mandatory respondents in this investigation. See Memorandum entitled “Selection of Respondents for the Antidumping Investigation of Citric Acid and Citrate Salts from the People’s Republic of China” (“Respondent Selection Memo”) (August 5, 2008); see also “Selection of Respondents” section, below. On August 6, 2008, the Department issued its antidumping questionnaire to TTCA and Yixing Union. TTCA and Yixing Union submitted timely responses to the questionnaire.

On August 19, 2008, Petitioners requested that the Department postpone the preliminary determination by 50 days, *i.e.*, until November 12, 2008, and

<sup>4</sup> July 13, 2008, was a Sunday. Thus, SRAs filed July 14, 2008 or filed using the one-day lag rule on July 15, 2008, were timely.

<sup>5</sup> RZBC Group includes RZBC Imp. & Exp. Co., Ltd., RZBC Co., Ltd., and RZBC (Juxian) Co., Ltd.

on August 29, 2008, the Department extended the preliminary determination deadline. See *Citric Acid and Certain Citrate Salts from Canada and the People's Republic of China: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 73 FR 50941 (August 29, 2008).

On October 6, 2008, Petitioners and TTCA submitted surrogate value data.<sup>6</sup> Petitioners submitted surrogate value data for Indonesia, while TTCA and Yixing Union submitted surrogate value data for Thailand. On October 8, 2008, TTCA submitted English translations for some of the information it submitted on October 6, 2008. We have preliminarily chosen Indonesia as our primary surrogate country for this investigation. See Memorandum entitled "Antidumping Investigation of Citric Acid and Certain Citrate Salts from the People's Republic of China: Selection of a Surrogate Country" (November 12, 2008).

#### Period of Investigation

The POI is October 1, 2007, through March 31, 2008. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition, which was April 2008.<sup>7</sup>

#### Scope of Investigation

The scope of this investigation 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 this investigation 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 this investigation 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%, by

weight, of the product. The scope of this investigation 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.

#### Scope Comments

In accordance with the preamble to the Department's regulations (see *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), in our *Notice of Initiation* we set aside a period of time for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of publication of the *Notice of Initiation*. On May 23, 2008, and June 3, 2008, respectively, Chemrom Inc., and L. Perrigo Company, both of which are importers of the merchandise under investigation, timely filed comments concerning the scope of the antidumping duty and countervailing duty investigations of citric acid from Canada and the People's Republic of China. Petitioners responded to these comments on June 16, 2008.

On August 6, 2008, the Department issued a memorandum to the file regarding Petitioners' proposed amendments to the scope of the investigations. In response, on August 11, 2008, L. Perrigo Company and Petitioners submitted comments to provide clarification of the term "unrefined" calcium citrate. We have analyzed the comments of the interested parties regarding the scope of this investigation. See Memorandum entitled "Antidumping Duty Investigations of Citric Acid and Certain Citrate Salts from Canada and the People's Republic of China (PRC), and Countervailing Duty Investigation of

Citric Acid and Certain Citrate Salts from the PRC: Whether to Amend the Scope of these Investigations to Exclude Monosodium Citrate and to Further Define the Product Referred to as "Unrefined Calcium Citrate" (September 10, 2008) ("Scope Memo"). Our position on these comments, as set out in the Scope Memo, is incorporated in the "Scope of the Investigation" section above.

#### Surrogate Country

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

For purposes of the instant investigation, in accordance with section 773(c) of the Act and 19 CFR 351.408, the Department has preliminarily selected Indonesia as the primary surrogate country. See Memorandum to the File: Antidumping Investigation of Citric Acid and Certain Citrate Salts from the People's Republic of China: Selection of a Surrogate Country, dated November 12, 2008.

#### Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual weighted-average dumping margins for each known exporter and producer of the subject merchandise. Section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters or producers and where it is not practicable to examine all known exporters or producers of subject merchandise, to investigate either (1) a sample of exporters, producers, or types of products that is statistically valid based on the information available to the Department at the time of selection, or (2) exporters accounting for the largest volume of the merchandise under investigation that can reasonably be examined. After consideration of the complexities of this investigation and the resources available to it, the Department determined that it was not practicable in this investigation to examine all known exporters of subject

<sup>6</sup> On October 7, 2008, we received a surrogate value submission from Yixing Union containing a single company's financial statements which was also included in TTCA's October 6, 2008, surrogate value submission.

<sup>7</sup> See 19 CFR 351.204(b)(1).

merchandise. We determined we had the resources to examine two exporters. We further determined to limit our examination to the two exporters accounting for the largest volume of the subject merchandise pursuant to section 777A(c)(2)(B) of the Act. Our analysis indicates that TTCA and Yixing Union are the two largest PRC exporters of subject merchandise by volume (measured by weight), and account for a significant percentage of all exports of the subject merchandise from the PRC during the POI. As a result, we selected these companies as the mandatory respondents in this investigation.<sup>8</sup>

### Non-Market Economy Country

For purposes of initiation, Petitioners submitted an LTFV analysis for the PRC as an NME.<sup>9</sup> 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.<sup>10</sup> Therefore, we have treated the PRC as an NME country for purposes of this preliminary determination.

### Separate Rates

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. 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 demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* governmental control over export activities. The Department analyzes each entity exporting the subject merchandise under a test arising from *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 *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").<sup>11</sup> However, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a separate-rate analysis is not necessary to determine whether it is independent from government control.

#### A. Separate-Rate Recipients

A.H.A, BBCA Biochemical, Changyun Biochemical, High Hope, Laiwu Taihe Biochemical, Penglai Marine, Shuren Scientific, Weifan Ensign, Xinghua Biochemical, JF International, and RZBC Group (collectively, "SR Applicants") and TTCA and Yixing Union (the mandatory respondents) all stated that they are either joint ventures between Chinese and foreign companies, or are wholly Chinese-owned companies. Therefore, the Department must analyze whether these respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over 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) other formal measures by the government decentralizing control of companies.

The mandatory respondents and SR Applicants provided evidence demonstrating: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies.<sup>12</sup>

<sup>11</sup> See also Policy Bulletin 05.1, which states: "[w]hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation." See Policy bulletin 05.1 at 6.

<sup>12</sup> See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR at 20589 (May 6, 1991).

##### b. Absence of De Facto Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a governmental 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.<sup>13</sup> 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 governmental control which would preclude the Department from assigning separate rates.

The mandatory respondents and the SR Applicants provided evidence demonstrating: (1) that the export prices are not set by, and are not subject to, the approval of a governmental agency; (2) they have authority to negotiate and sign contracts and other agreements; (3) they have autonomy from the government in making decisions regarding the selection of management; and (4) they retain the proceeds of their export sales and make independent decisions regarding disposition of profits or financing of losses.

Therefore, the evidence placed on the record of this investigation by the mandatory respondents and the SR Applicants demonstrates an absence of *de jure* and *de facto* government control with respect to each of the exporters' exports of the merchandise under investigation, in accordance with the criteria identified in *Sparklers and Silicon Carbide*.

#### Application of Facts Available for the PRC Wide Entity

Section 776(a)(2) of the Act provides that, 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 subsections 782(c)(1) and (e) of the Act, (C) significantly impedes a proceeding under the antidumping statute, or (D) provides such information but the

<sup>13</sup> See *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994); 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).

<sup>8</sup> See Respondent Selection Memo.

<sup>9</sup> See *Notice of Initiation*.

<sup>10</sup> See, e.g., *Lightweight Thermal Paper From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 57329 (October 2, 2008) ("*LWTP Final*").

information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Information on the record of this investigation indicates that the PRC-wide entity was non-responsive. Certain companies did not respond to our questionnaire requesting Q&V information. See Respondent Selection Memo. Specifically, we issued the Q&V questionnaire to 129 identified PRC exporters of the subject merchandise.<sup>14</sup> Evidence on the record indicates that 65 identified PRC exporters of subject merchandise received our Q&V questionnaire but did not respond to the Department. See Respondent Selection Memo at Attachment III. Based on the above facts, the Department preliminarily determines that there were exports of the subject merchandise under investigation from PRC exporters that did not respond to the Department's questionnaire. In addition, such exporters did not demonstrate entitlement to separate rates status. Thus, we are treating these PRC exporters as part of the countrywide entity. As a result, use of facts available pursuant to section 776(a)(2) of the Act is warranted for the PRC entity.<sup>15</sup>

Section 776(b) of the Act provides that if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information, the Department may employ adverse inferences.<sup>16</sup> We find that, because the PRC-wide entity did not respond to our request for information, it has failed to cooperate to the best of its ability. Therefore, the Department preliminarily finds that, in selecting from among the facts available, an adverse inference is appropriate.

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) provide that the Department may 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 selecting a rate for AFA, the Department selects a rate that is sufficiently adverse "as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner."<sup>17</sup> It is further the Department's practice to select a rate that ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."<sup>18</sup>

It is the Department's practice to select, as AFA, the higher of a) the highest margin alleged in the petition, or b) the highest calculated rate of any respondent in the investigation.<sup>19</sup> As AFA, we have preliminarily assigned to the PRC-wide entity a rate of 156.87 percent, the highest rate from the petition, as revised by the Department.<sup>20</sup> The Department preliminarily determines that this information is the most appropriate from the available sources to effectuate the purposes of AFA. The Department's reliance on the initiation rate to determine an AFA rate is subject to the requirement to corroborate secondary information.

#### Corroboration

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. 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."<sup>21</sup> The SAA provides that to "corroborate" means simply that the Department will satisfy itself that the secondary information to

be used has probative value.<sup>22</sup> The SAA also states that independent sources used to corroborate may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation.<sup>23</sup> To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.<sup>24</sup>

The AFA rate that the Department used is from the petition, as revised by the Department, and is thus secondary information subject to the corroboration requirement.<sup>25</sup> Petitioners' methodology for calculating the export price ("EP") and normal value ("NV") in the petition is discussed in the initiation notice.<sup>26</sup> To corroborate the AFA margin we have selected, we compared that margin to the control number specific margins we found for the mandatory respondents that cooperated. We found that the margin of 156.87 percent has probative value because it is in the range of control number-specific margins we found for the mandatory respondents. Accordingly, we find that the rate of 156.87 percent is corroborated within the meaning of section 776(c) of the Act.

Consequently, we are applying a single antidumping rate the PRC-wide rate to exporters that failed to respond to the Department's the Q&V questionnaire, or did not apply for a separate rate, as applicable. The PRC-wide rate applies to all entries of the merchandise under investigation except for entries from mandatory respondents TTCA and Yixing Union, and the remaining the separate-rate recipients. These companies and their corresponding antidumping duty cash deposit rates are listed below in the "Preliminary Determination" section of this notice.

#### Margin for the Separate-Rate Applicants

We have established a simple-average margin for all separate-rate recipients

<sup>22</sup> See *id.*

<sup>23</sup> See *id.*

<sup>24</sup> 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 *Final Results of Antidumping Duty Administrative Reviews and Termination in Part: 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*, 62 FR 11825 (March 13, 1997).

<sup>25</sup> See *Notice of Initiation*.

<sup>26</sup> See *Notice of Initiation*.

<sup>14</sup> Of these PRC exporters of subject merchandise 64 Q&V questionnaires were not delivered and thus returned to the Department. See Respondent Selection Memo at 1 and Attachment III. Out of the group of PRC exporters whose Q&V questionnaires were returned to the Department, six of these PRC exporters nonetheless submitted a timely Q&V questionnaire response. Of the PRC exporters who received the Q&V questionnaire we received responses from seven exporters who claimed shipments and three exporters of whom claimed no shipments. One PRC exporter entered a timely Q&V questionnaire response but was not on the list of 129 identified PRC exporters of the subject merchandise. The 14 PRC exporters who reported shipments of Citric Acid to the United States did not account for all imports into the United States from the PRC during the POI.

<sup>15</sup> See, e.g., *LWTP Final*.

<sup>16</sup> See, e.g., *LWTP Final*. See also *Statement of Administrative Action accompanying the URAA, H.R. Rep. No. 103-316 ("SAA") at 870*.

<sup>17</sup> See *Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

<sup>18</sup> See SAA at 870. See also, *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the Seventh Administrative Review; Final Results of the Eleventh New Shipper Review*, 70 FR 69937, 69939 (November 18, 2005).

<sup>19</sup> See, e.g., *Final Determination of Sales at Less Than Fair Value: Sodium Hexametaphosphate From the People's Republic of China*, 73 FR 6479, 6481 (February 4, 2008).

<sup>20</sup> See *Notice of Initiation*.

<sup>21</sup> See SAA at 870.

that were not selected as mandatory respondents, based on the rates we calculated for the mandatory respondents, excluding any rates that are zero, *de minimis*, or based entirely on AFA. That rate is 134.75 percent and these parties are identified by name in the “Preliminary Determination” section of this notice.

### Fair Value Comparisons

To determine whether sales of citric acid to the United States by the mandatory respondents were made at LTFV, we compared export price (“EP”) to NV, as described in the “Export Price” and “Normal Value” sections of this notice.

### Export Price

In accordance with section 772(a) of the Act, EP is the price at which the 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. In accordance with section 772(a) of the Act, we used EP for TTCA’s and Yixing Union’s U.S. sales because the subject merchandise was sold directly to the unaffiliated customers in the United States prior to importation and because constructed export price (“CEP”) was not otherwise indicated. Neither mandatory respondent reported CEP sales.

We calculated EP based on the packed FOB, CFR, or CIF prices to unaffiliated purchasers in, or for exportation to, the United States. We made deductions, as appropriate, for any movement expenses (*e.g.*, foreign inland freight from the plant to the port of exportation, brokerage and handling, marine insurance, and ocean freight) in accordance with section 772(c)(2)(A) of the Act. For a detailed description of all adjustments, see Memorandum to the File entitled “Investigation of Citric Acid and Citrate Salts from the People’s Republic of China: Analysis of the Preliminary Determination Margin Calculation for TTCA Co., Ltd., (a.k.a. Shandong TTCA Biochemistry Co., Ltd.)” (November 12, 2008) and Memorandum to the File entitled “Investigation of Citric Acid and Citrate Salts from the People’s Republic of China: Analysis of the Preliminary Determination Margin Calculation for Yixing Union Biochemical Co., Ltd.” (November 12, 2008).

### Normal Value

We compared NV to weighted-average EPs in accordance with section 777A(d)(1) of the Act. Further, section 773(c)(1) of the Act provides that the Department shall determine the NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on the FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under its normal methodologies.

### Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on FOPs reported by mandatory respondents for the POI. To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available Indonesian surrogate values. For a detailed discussion of the surrogate values used in this investigation, see Surrogate Value Memorandum. In selecting the surrogate values, consistent with our practice, we considered the quality, specificity, and contemporaneity of the data.<sup>27</sup> As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to Indonesian 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, where appropriate. This adjustment is in accordance with the Federal Circuit decision in *Sigma Corp. v. United States*, 117 F. 3d 1401, 1407–1408 (Fed. Cir. 1997).

In accordance with 19 C.F.R. 351.301(c)(3)(i), for the final determination in an antidumping investigation, interested parties may submit within 40 days after the date of publication of the preliminary determination publicly available information to value the factors of production (“FOP”).<sup>28</sup>

<sup>27</sup> See *e.g.*, *Lightweight Thermal Paper From the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 27504, (May 13, 2008) (“LWTP Prelim”) unchanged at LWTP Final.

<sup>28</sup> In accordance with 19 CFR 351.301(c)(1), for the final determination of this investigation, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However,

For this preliminary determination for direct material inputs, packing material inputs, some by-products, and a utility input, we used Indonesian import values from the World Trade Atlas (“WTA”) online, which were published by Statistics Indonesia. The WTA Indonesian import statistics used to calculate surrogate values for the mandatory respondents’ material inputs are reported in U.S. dollars and are contemporaneous with the POI. Where we could not use WTA Indonesian import statistics, we used Indian import statistics from the WTA. In selecting the best available information for valuing FOPs in accordance with section 773(c)(1) of the Act, the Department’s practice is to select, to the extent practicable, surrogate values which are non-export average values, most contemporaneous with the POI, product-specific, and tax-exclusive.<sup>29</sup>

Where we could not obtain publicly available information contemporaneous with the POI with which to value FOPs, we adjusted the surrogate values using, where appropriate, the Indonesian or Indian Wholesale Price Index (“WPI”) as published in the *International Financial Statistics* of the International Monetary Fund (“IMF”).

Furthermore, with regard to the Indonesian and Indian import-based surrogate values, we have disregarded import prices that we have reason to believe or suspect may be subsidized. We have reason to believe or suspect that prices of inputs from Indonesia, India, South Korea, and Thailand may have been subsidized.<sup>30</sup> We have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets from these

the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. The Department generally will not accept the submission of additional, previously absent-from-the-record alternative surrogate value information pursuant to 19 CFR 351.301(c)(1). See *Glycine from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission*, in Part, 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum at Comment 2.

<sup>29</sup> 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).

<sup>30</sup> See, *e.g.*, *LWTP Prelim unchanged at LWTP Final*.

countries may be subsidized.<sup>31</sup> We are also guided by the legislative history not to conduct a formal investigation to ensure that such prices are not subsidized.<sup>32</sup> Rather, Congress directed the Department to base its decision on information that is available to it at the time it makes its determination. Therefore, we have not used prices from these countries in calculating the Indonesian and Indian import-based surrogate values. In addition, we excluded Indonesian and Indian import data from NME countries from our surrogate value calculations.

We calculated freight costs for truck freight or inland boat freight, as appropriate, using an Indian per-unit average rate calculated from data on the following Web site: <http://www.infobanc.com/logistics/logtruck.htm>. The logistics section of this Web site contains inland freight truck rates between many large Indian cities. Since this value is not contemporaneous with the POI, we deflated the rate using WPI. Since the only inland boat value on the record is almost 12 years old, we used the Indian truck freight from 2008 to value inland boat freight consistent with *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 14.

For labor, consistent with 19 CFR 351.408(c)(3), we 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, available at <http://ia.ita.doc.gov/wages/index.html>. Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by the respondents. If the NME wage rates are updated by the Department prior to

issuance of the final determination, we will use the updated wage rate in the final determination.

We valued electricity using rates from Energy Information Administration's International Electricity Prices and Fuel Costs "Electricity Price for Industry" table. The listed Indonesian rate for electricity is for 2005, so we applied the appropriate WPI inflator to make the rate contemporaneous with the POI. We valued water using the average water rate charged by the *United Nations Human Development Report 2006: Disconnected: Poverty, Water Supply, and Development in Jakarta Indonesia* ("UN Report"). The water rate is based on the 2005 average water tariff for the tariff group made up of "large hotels, highrise buildings, banks, and factories" in Indonesia. Since the information was not contemporaneous with the POI, we applied the appropriate WPI inflator.

We valued steam using a January 2006 Indonesian price for natural gas published by the American Chemistry Council following the methodology in *Goldlink Industries Co., Ltd., Trust Chem Co., Ltd., Tianjin Hanchem International Trading Co., Ltd. v. United States*, 431 F. Supp. 2d 1323 (CIT 2006). Because the information was not contemporaneous with the POI, we applied the appropriate WPI inflator.

To value factory overhead, selling, general, and administrative expenses, and profit, we used audited financial statements for the year ending December 2007 of PT Budi Acid Jaya TBK, a producer of comparable merchandise from Indonesia. The Department may consider other publicly available financial statements for the final determination, as appropriate.

TTCA claimed five by-product offsets consisting of high protein feed stuff, low protein feedstuff, granular mud, electricity, and steam. TTCA claimed it produced and sold all five types of by-products. However, TTCA did not support the reported production quantities for low protein feedstuff as requested in the Department's

September 29, 2008, supplemental questionnaire. Therefore, we have not granted a by-product offset for TTCA's low protein feed stuff. Additionally, granular mud and electricity were not generated directly from the production of citric acid, but rather are generated from processing a by-product of citric acid.<sup>33</sup> With regards to granular mud and electricity, TTCA has not, as requested in the questionnaire issued on August 6, 2008, explained any further processing of these by-products or co-products or identified the factors and quantities used in the further processing. Therefore, we have not granted a by-product offset for TTCA's granular mud and electricity. We are preliminarily granting a by-product offset for TTCA's high protein feedstuff and steam.

#### Currency Conversion

As appropriate, we 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.

#### Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information submitted by TTCA and Yixing Union upon which we will rely in making our final determination. Additionally, we may also verify the information on the record submitted by selected separate-rate applicants.

#### Combination Rates

In the *Notice of Initiation*, the Department stated that it would calculate combination rates for respondents that are eligible for a separate rate in this investigation.<sup>34</sup> This practice is described in Policy Bulletin 05.1.<sup>35</sup>

#### Preliminary Determination

The weighted-average dumping margins are as follows:

EXPORTER	PRODUCER	MARGIN
TTCA Co., Ltd., (a.k.a. Shandong TTCA Biochemistry Co., Ltd.) .....	TTCA Co., Ltd., (a.k.a. Shandong TTCA Biochemistry Co., Ltd.)	150.09
Yixing Union Biochemical Co., Ltd. ....	Yixing Union Biochemical Co., Ltd.	119.41
Anhui BBCA Biochemical Co., Ltd. ....	Anhui BBCA Biochemical Co., Ltd.	134.75
Anhui BBCA Biochemical Co., Ltd. ....	China BBCA Maanshan Biochemical Corp.	134.75
A.H.A. International Co., Ltd. ....	Yixing Union Biochemical Co., Ltd.	134.75
A.H.A. International Co., Ltd. ....	Nantong Feiyu Fine Chemical Co., Ltd.	134.75
High Hope International Group Jiangsu Native Produce IMP & EXP Co., Ltd. ....	Yixing Union Biochemical Co., Ltd.	134.75

<sup>31</sup> See *id.*

<sup>32</sup> See *Omnibus Trade and Competitiveness Act of 1988, Conference Report to Accompanying H.R. 3, H.R. Rep. 100-576 at 590 (1988).*

<sup>33</sup> See TTCA's October 22, 2008, submission at 17 and October 28, 2008 questionnaire response at 4-5.

<sup>34</sup> See *Notice of Initiation*.

<sup>35</sup> See Footnote 36, *supra*.

EXPORTER	PRODUCER	MARGIN
Huangshi Xinghua Biochemical Co., Ltd. ....	Huangshi Xinghua Biochemical Co., Ltd.	134.75
Lianyungang JF International Trade Co., Ltd. ....	TTCA Co., Ltd., (a.k.a. Shandong TTCA Biochemistry Co., Ltd.)	134.75
Laiwu Taihe Biochemistry Co., Ltd. ....	Laiwu Taihe Biochemistry Co., Ltd.	134.75
Lianyungang Shuren Scientific Creation Import & Export Co., Ltd. ....	Lianyungang Great Chemical Industry Co., Ltd.	134.75
Penglai Marine Bio-Tech Co. Ltd. ....	Penglai Marine Bio-Tech Co. Ltd.	134.75
RZBC Imp & Exp. Co., Ltd./ RZBC Co., Ltd./ RZBC (Juxian) Co., Ltd. ...	RZBC Co., Ltd.	134.75
RZBC Imp & Exp. Co., Ltd./ RZBC Co., Ltd./ RZBC (Juxian) Co., Ltd. ...	RZBC (Juxian) Co., Ltd.	134.75
RZBC Imp & Exp. Co., Ltd./ RZBC Co., Ltd./ RZBC (Juxian) Co., Ltd. ...	Lianyungang Great Chemical Industry Co., Ltd.	134.75
Shihezi City Changyun Biochemical Co., Ltd. ....	Shihezi City Changyun Biochemical Co., Ltd.	134.75
Weifang Ensign Industry Co., Ltd. ....	Weifang Ensign Industry Co., Ltd.	134.75
PRC-Entity .....	.....	156.87

### Disclosure

We will disclose to parties the calculations performed in this proceeding within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

### Suspension of Liquidation

In accordance with section 733(d) of the Act, we will instruct CBP to suspend liquidation of all entries of merchandise subject to this investigation, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Department has determined in its *Citric Acid and Certain Citrate Salts From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination* 73 FR 54367 (September 19, 2008) ("*CVD Citric Acid Prelim*"), that the product under investigation, exported and produced by TTCA, benefitted from an export subsidy. Normally, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct CBP to require an antidumping cash deposit or posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated above, minus the amount determined to constitute an export subsidy. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Carbazole Violet Pigment 23 From India*, 69 FR 67306, 67307 (November 17, 2007). Therefore, for merchandise under consideration exported and produced by TTCA entered or withdrawn from warehouse, for consumption on or after publication date of this preliminary determination, we will instruct CBP to require an antidumping cash deposit or the posting of a bond for each entry equal to the weighted-average margin indicated above, adjusted for the export subsidy rate determined in *CVD Citric Acid Prelim* (i.e., Other Policy Bank

Loan countervailable subsidy of 0.48 percent *ad valorem*). Furthermore, for all separate-rate recipients that were not selected as mandatory respondents, we will instruct CBP to require an antidumping cash deposit or the posting of a bond for each entry equal to the average of the margins calculated for the mandatory respondents, adjusted for their respective export subsidy rates, if applicable, from *CVD Citric Acid Prelim*.

For the remaining exporters, the following cash deposit requirements will be effective upon publication of the preliminary determination for all shipments of merchandise under consideration entered or withdrawn from warehouse for consumption on or after publication date: (1) The rate for the exporter/producer combinations listed in the chart above will be the rate we have determined in this preliminary determination, adjusted as noted above where appropriate; (2) for all PRC exporters of merchandise subject to this investigation that have not received their own rate, the cash-deposit rate will be the PRC-wide rate; (3) for all non-PRC exporters of merchandise subject to this investigation that have not received their own rate, the cash-deposit rate will be the rate applicable to the PRC exporter/producer combination that supplied that non-PRC exporter. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds U.S. price, as indicated above. The suspension of liquidation will remain in effect until further notice.

### International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination of sales at LTFV. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with

material injury, by reason of imports of citric acid, or sales (or the likelihood of sales) for importation, of the subject merchandise within 45 days of our final determination.

### Postponement of Final Determination

Section 735(a)(2)(A) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise. Section 351.210(e)(2) of the Department's regulations requires that exporters requesting postponement of the final determination must also request an extension of the provisional measures referred to in section 733(d) of the Act from a four-month period until not more than six months. We received a request to postpone the final determination from TTCA on November 3, 2008 and from Yixing Union on November 10, 2008. In addition, TTCA consented to the extension of provisional measures from a four-month period to not longer than six months. Because this preliminary determination is affirmative, the request for postponement was made by an exporter who accounts for a significant proportion of exports of the subject merchandise,<sup>36</sup> and there is no compelling reason to deny the respondent's request, we have extended the deadline for issuance of the final determination until the 135 days after the date of publication of this preliminary determination in the **Federal Register** and have extended provisional measures to not longer than six months.

<sup>36</sup> See Memorandum to the File: Selection of Respondents for the Antidumping Investigation of Citric Acid and Citrate Salts from the People's Republic of China (August 8, 2008).

**Public Comment**

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than seven days after the date on which the final verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in case briefs may be submitted no later than five days after the deadline date for case briefs. *See* 19 CFR 351.309. A table of contents, list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes.

In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. 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, U.S. Department of Commerce, Room 1870, within 30 days after the date of publication of this notice.<sup>37</sup> Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 14th Street and Constitution Ave, NW, Washington, DC 20230. *See* 19 CFR 351.310. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

We will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: November 12, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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<sup>37</sup> *See* 19 CFR 351.310(c).