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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-938]

Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Results of Countervailing Duty Administrative Review

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

SUMMARY: The Department of Commerce ("the Department") has completed its administrative review of the countervailing duty ("CVD") order on citric acid and certain citrate salts from the People's Republic of China ("PRC") for the period September 19, 2008, through December 31, 2009. On June 8, 2011, we published the preliminary results of this review. *See Citric Acid and Certain Citrate Salts from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review*, 76 FR 33219 (June 8, 2011) ("*Preliminary Results*"). We provided interested parties with an opportunity to comment on the preliminary results. Our analysis of the comments submitted as well as incorporation of our post-preliminary analyses led to a change in the net subsidy rates. The final net subsidy rates for RZBC Co., Ltd.; RZBC Import & Export Co., Ltd.; RZBC (Juxian) Co., Ltd.; and RZBC Group Co., Ltd. (collectively, "RZBC"), and Yixing-Union Biochemical Co., Ltd. ("Yixing-Union") and Yixing-Union Cogeneration Co., Ltd. ("Cogeneration") (collectively, "Yixing") are listed below in the section entitled "Final Results of Review."

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: David Layton or Austin Redington, AD/CVD Operations, Office 1, Import Administration, U.S. Department of Commerce, 14th Street and

Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-0371 and (202) 482-1664, respectively.

SUPPLEMENTARY INFORMATION:

Background

Following the *Preliminary Results*, on June 17, 2011, the Department requested clarification from Archer Daniels Midland Company; Cargill, Incorporated; and Tate & Lyle Americas (collectively, “Petitioners”) regarding Petitioners’ request for business proprietary treatment for certain alternative financial statements they had submitted on May 13 and May 19, 2011, which Petitioners reported as originating with the respondents. Petitioners provided the requested clarification on June 24, 2011.

On July 12, 2011, the Department asked Petitioners to grant respondents direct access to the alternative financial statements. The Department further stated that if Petitioners did not agree to this disclosure, it would return the submissions to Petitioners. On July 25, 2011, Petitioners refiled the May 13, and May 19, 2011 submissions without the alternative financial statements.

The Department issued additional supplemental questionnaires to the Government of the People’s Republic of China (“GOC”), RZBC and Yixing in July through October 2011, and received timely responses from all three parties. However, the Department returned two GOC responses to the July 21, 2011 supplemental questionnaire because they contained unsolicited new factual information.

From August 29 through September 2, 2011, we conducted a verification of RZBC’s questionnaire responses, and from September 5 through September 9, 2011, we conducted a

verification of Yixing's questionnaire responses. The Department released its verification reports for RZBC and Yixing to interested parties on October 17, 2011.¹

The Department issued a preliminary creditworthiness determination for RZBC for years 2006 through 2009 on September 29, 2011.² On October 11, 2011, the Department issued a preliminary creditworthiness determination with respect to the Yixing for years 2004 and 2005.³ The Department completed a post-preliminary analysis of seven subsidy programs reported by RZBC, and issued its preliminary findings on these programs on October 13, 2011.⁴

In the *Preliminary Results*, we invited interested parties to submit briefs. We received case briefs from Yixing, RZBC, the GOC, and Petitioners on October 24, 2011. We received rebuttal briefs from Yixing and Petitioners on November 3, 2011. The Department also provided parties with the opportunity to submit separate comments and rebuttals with respect to the October 24, 2011 supplemental questionnaire response submitted by the GOC. The GOC provided comments on this later questionnaire response on October 31, 2011.

Scope of the Order

¹ See Memorandum from Taija Slaughter and Jeff Pederson to the File "Verification Report of the Response of RZBC Co., Ltd., RZBC Import & Export Co., Ltd., & RZBC (Juxian) Co., Ltd. in the Countervailing Duty Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China," dated October 11, 2011; Memorandum from Taija Slaughter and Jeff Pederson to the File "Verification Report of the Responses of Yixing Union Biochemical Co., Ltd. in the Countervailing Duty Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China," dated October 11, 2011.

² See Memorandum to Susan H. Kuhbach, Office Director, AD/CVD Operations, Office 1, from David Layton, International Trade Specialist, AD/CVD Operations, Office 1: Preliminary Creditworthiness Determination for RZBC Co., Ltd. ("RZBC Co."); RZBC Import & Export Co., Ltd. ("RZBC IE"); and RZBC (Juxian) Co., Ltd. ("RZBC Juxian"); and RZBC Group Co., Ltd. ("RZBC Group") (collectively, "RZBC") dated September 29, 2011.

³ See Memorandum to Susan H. Kuhbach, Office Director, AD/CVD Operations, Office 1, from Austin Redington, International Trade Specialist AD/CVD Operations, Office 1: Preliminary Creditworthiness Determination for Yixing-Union Biochemical Co., Ltd. and Yixing-Union Cogeneration Co., Ltd., dated October 11, 2011.

⁴ See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, "Post-Preliminary Analysis Memorandum for RZBC Co., Ltd. ("RZBC Co."), RZBC Import & Export Co., Ltd. ("RZBC I&E"), RZBC (Juxian) Co., Ltd. ("RZBC Juxian"), RZBC Group Co., Ltd. ("RZBC Group") (collectively, "RZBC")," dated October 13, 2011.

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.

Period of Review

The period for which we are measuring subsidies, *i.e.*, the period of review (“POR”), is September 19, 2008, through December 31, 2009.⁵ Because the POR spans two calendar years, we are calculating separate CVD rates for September 19, 2008, through December 31, 2008; and January 1, 2009, through December 31, 2009.

Scope Rulings

On November 2, 2010, Aceto Corporation (“Aceto”) requested that the Department find its calcium citrate United States Pharmacopeia (“USP”) to be outside the scope of the CVD order and the antidumping duty orders on citric acid and certain citrate salts from the PRC and Canada. *See Citric Acid and Certain Citrate Salts from the People’s Republic of China; Notice of Countervailing Duty Order*, 74 FR 25705 (May 29, 2009) (“CVD Order”). *See also Citric Acid and Certain Citrate Salts from Canada and the People’s Republic of China: Antidumping Duty Orders*, 74 FR 25703 (May 29, 2009) (“AD Orders”). On February 14, 2011, the Department issued a final scope ruling, finding that Aceto’s product is within the scope of those orders. *See Memorandum from Christopher Siepmann, International Trade Analyst, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Citric Acid and Certain Citrate Salts: Scope Ruling for Calcium Citrate USP”* (February 14, 2011).

On July 26, 2010, Global Commodity Group LLC (“GCG”) requested that the Department find a blend of citric acid it imports containing 35 percent citric acid from the PRC and 65 percent citric acid from other countries is outside the scope of the *CVD Order* and the *AD Orders*. On May 2, 2011, the Department issued a final scope ruling, finding that GCG’s product is within the scope of those orders. *See Memorandum from Christopher Siepmann,*

⁵ For the purposes of the final results, we analyzed data for the period January 1, 2008, through December 31, 2008, to determine the subsidy rate for exports of subject merchandise made during the period in 2008 when liquidation of entries was suspended. In addition, we analyzed data for the period January 1, 2009, through December 31, 2009, to determine the subsidy rate for exports during that period. The 2009 subsidy rate will serve as the cash deposit rate for exports of subject merchandise subsequent to the publication of these final results.

International Trade Analyst, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Citric Acid and Certain Citrate Salts: Final Determination on Scope Inquiry for Blended Citrate Acid from the People’s Republic of China and Other Countries” (May 2, 2011). Pursuant to this ruling, we have instructed U.S. Customs and Border Protection (“CBP”) that the quantity of citric acid from the PRC in the commingled merchandise is subject to the *CVD Order* and *AD Orders*. We have also instructed CBP that if the quantity of citric acid from the PRC in a commingled shipment cannot be accurately determined, then the entire commingled quantity is subject to the orders.

Analysis of Comments Received

All issues raised in the GOC’s, Petitioners’, RZBC’s, and Yixing’s case briefs are addressed in the Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, entitled “Issues and Decision Memorandum for the Final Results of the Countervailing Duty Administrative Review of Citric Acid and Certain Citrate Salts from the People’s Republic of China,” (December 5, 2011) (“Issues and Decision Memorandum”), which is hereby adopted by this notice. A list of the issues raised is attached to this notice as Appendix I. The Issues and Decision Memorandum is a public document and is on file electronically via Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”). Access to IA ACCESS is available in the Central Records Unit (“CRU”), room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the internet at <http://www.trade.gov/ia/>. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Changes since the *Preliminary Results* and the Post-Preliminary Analyses

- 1) We recalculated the aggregate subsidy benefits separately for 2008 and 2009 for outstanding loans received by RZBC companies under the Shandong Province Policy Loan program and Export Seller's Credit for High- and New-Technology Products programs, based on the whole year data and interest payments specific to each of those calendar years.
- 2) We included under the Shandong Province Policy Loan program RZBC's bankers' acceptances outstanding in 2008 and 2009.
- 3) We recalculated the aggregate subsidy benefit of loans outstanding in 2009 received by Yixing under the National Policy Lending program, using 2009-specific interest payments.
- 4) We recalculated the 2009 subsidy benefit from National Policy Lending program to include Yixing's bankers' acceptances outstanding in 2009.
- 5) We recalculated the 2008 aggregate subsidy benefits from the GOC's provision of sulfuric acid for less than adequate remuneration ("LTAR") for both RZBC and Yixing, and recalculated the 2009 aggregate subsidy benefits from the GOC's provision of sulfuric acid for LTAR for RZBC.
- 6) Based on the finding that Yixing was uncreditworthy in certain earlier years we recalculated the allocated subsidy conferred by certain non-recurring grants for the Value-Added Tax and Duty Exemptions program, using a discount rate applicable to uncreditworthy firms.
- 7) Based on our uncreditworthy determination for certain RZBC companies, we are applying an uncreditworthy benchmark rate to certain long-term loans received by RZBC companies in relevant years in our recalculation of the aggregate subsidy benefits for the Shandong Policy Loan and Export Seller's Credit for High- and New-Technology Products programs.

8) We are not calculating a subsidy rate for the GOC's provision of steam coal for LTAR for these final results because we have determined that we require more information on the *de facto* specificity of this program and, thus, will have to defer a decision on the program's countervailability to a future administrative review. *See* Issues and Decision Memorandum at Comment 6.

Final Results of Review

In accordance with 19 CFR 351.221(b)(5), we calculated individual *ad valorem* subsidy rates for RZBC and Yixing, the producers covered by this administrative review, as set forth below:

Producer Exporter	Net Subsidy Rate- 2008	Net Subsidy Rate- 2009
RZBC Co., Ltd.; RZBC Import & Export Co., Ltd.; RZBC (Juxian) Co., Ltd.; and RZBC Group Co., Ltd.	7.44%	8.93%
Yixing-Union Biochemical Co., Ltd. and Yixing-Union Cogeneration Co., Ltd.	5.65%	16.13%

Assessment Rates

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

Cash Deposit Instructions

The Department also intends to instruct CBP to collect cash deposits of estimated CVDs in the amounts shown above. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Administrative Protective Order

This notice serves as a reminder to parties subject to administrative protective order (“APO”) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Christian Marsh
Acting Assistant Secretary
for Import Administration

____ December 5, 2011 ____
Date

Appendix – Issues and Decision Memorandum

General Issues

- Comment 1** Application of CVD Law to the PRC and Double Remedy
Comment 2 Whether Application of the CVD Law to NMEs Violates the APA
Comment 3 Countervailability of Input Purchases Made Through Private Trading Companies

Case-Specific

- Comment 4** Adjustment of the International Freight Benchmark Used to Measure the Benefit of Steam Coal Sold at LTAR
Comment 5 Whether Petitioners' Factual Information Submissions Were Properly Certified
Comment 6 Whether Steam Coal at LTAR is Specific
Comment 7 Whether Sulfuric Acid at LTAR is Specific
Comment 8 Application of AFA to Yixing for Sulfuric Acid LTAR
Comment 9 Use of Prices from Actual Transactions in the PRC (Tier 1 Benchmark) to Measure Benefit of Sulfuric Acid LTAR
Comment 10 Evidence of Policy Lending
Comment 11 Whether Certain Input Suppliers Are Government Authorities

Respondent Specific

- Comment 12** Whether Cogeneration is the Parent of Yixing-Union
Comment 13 Application of the Upstream Subsidy Provision for the Steam Coal LTAR
Comment 14 Adequacy of Yixing's Cooperation In Providing Information on Affiliate
Comment 15 Whether the State Ownership Determination for Yixing's Affiliates is Correct
Comment 16 Whether the Department Deprived Yixing of the Opportunity to Review Subsidy Calculations
Comment 17 Correction of AFA Ruling Based on RZBC Submission of Requested Information
Comment 18 Whether Department's Finding that RZBC was Uncreditworthy Is Supported by Record Evidence
Comment 19 Whether the Department Provided the GOC the Opportunity to Correct Deficiencies Found in the *Preliminary Results*

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