



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-072]

Sodium Gluconate, Gluconic Acid and Derivative Products from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of sodium gluconate, gluconic acid and derivative products (GNA products) from the People's Republic of China (China). The period of investigation is January 1, 2016, through December 31, 2016. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Robert Galantucci or Jonathan Hill, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: 202-482-2923 or 202-482-3518, respectively.

SUPPLEMENTARY INFORMATION:

*Background*

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this

investigation on January 4, 2018.<sup>1</sup> Commerce exercised its discretion to toll all deadlines affected by the closure of the Federal Government from January 20 through January 22, 2018.<sup>2</sup> On February 7, 2018, Commerce published its postponement of the deadline for the preliminary determination of the investigation for the full 130 days permitted under section 703(c)(1)(A) of the Act and 19 CFR 351.205(b)(2) until May 2, 2018.<sup>3</sup>

For a complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum.<sup>4</sup> A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping (AD) and Countervailing Duty (CVD) Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

### *Scope of the Investigation*

The products covered by this investigation are sodium gluconate, gluconic acid and derivative products from China. For a complete description of the scope of this investigation,

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<sup>1</sup> See *Sodium Gluconate, Gluconic Acid, and Derivative Products from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 83 FR 499 (January 4, 2018) (*Initiation Notice*).

<sup>2</sup> See Memorandum, "Deadlines Affected by the Shutdown of the Federal Government," dated January 23, 2018. (Tolling Memorandum). All deadlines in this segment of the proceeding have been extended by 3 days.

<sup>3</sup> See *Sodium Gluconate, Gluconic Acid and Derivative Products from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 83 FR 5401 (February 7, 2018).

<sup>4</sup> See Memorandum, "Decision Memorandum for the Preliminary Affirmative Determination: Countervailing Duty Investigation of Sodium Gluconate, Gluconic Acid and Derivative Products from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

*see* Appendix I.

### *Scope Comments*

In accordance with the preamble to Commerce’s regulations, we set aside a period of time in our *Initiation Notice* for parties to raise issues regarding product coverage, and encouraged all parties to submit comments within 20 calendar days of the signature date of that notice. We received several comments concerning the scope of the AD and CVD investigations of GNA products from China.

We are currently evaluating the scope comments filed by interested parties. We intend to issue our preliminary decision regarding the scope of the AD and CVD investigations in the preliminary determination of the companion AD investigation, which is due for signature on July 2, 2018. We will incorporate the scope decisions from the AD investigation into the scope of the final CVD determination after considering any relevant comments submitted in case and rebuttal briefs.

### *Methodology*

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, We preliminarily determine that there is a subsidy, *i.e.*, a financial contribution by an “authority” that confers a benefit on the recipient, and that the subsidy is specific.<sup>5</sup> For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.

We note that, in making these findings, we relied on facts otherwise available. Additionally, because we find that the mandatory respondents did not act to the best of their ability to respond to our requests for information, and therefore impeded this investigation, we

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<sup>5</sup> *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

drew an adverse inference where appropriate in selecting from among the facts otherwise available.<sup>6</sup>

### *Alignment*

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of GNA products from China, based on a request made by PMP Fermentation Products, Inc. (the petitioner).<sup>7</sup> Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than September 17, 2018.<sup>8</sup>

### *Adverse Facts Available*

In accordance with sections 776(a)(1), 776(a)(2), and 776(b) of the Act, we applied facts otherwise available with an adverse inference to assign countervailable subsidy rates to non-cooperative mandatory respondents Qingdao Dongxiao Enterprise Co., Ltd. (Qingdao Dongxiao), Shandong Fuyang Biotechnology Co. (Fuyang), Shandong Kaison Biochemical Co Ltd (Kaison), and Tongxiang Hongyu Chemical Co., Ltd. (Hongyu Chemical). Hongyu Chemical, Kaison and Qingdao Dongxiao did not respond to Commerce's request for necessary information, and therefore impeded this investigation. Accordingly, we drew an adverse inference where appropriate in selecting from among the facts otherwise available.

With respect to Fuyang, we find that certain of Fuyang's submissions remain incomplete, or conflict with other record evidence. We find the use of facts available is appropriate because

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<sup>6</sup> See sections 776(a) and (b) of the Act.

<sup>7</sup> See Letter from the petitioner, "Countervailing Duty Investigation of Sodium Gluconate, Gluconic Acid and Derivative Products from the People's Republic of China: PMP's Request to Align the Countervailing Duty Final Determination with the Companion Antidumping Final Determination," dated April 12, 2018.

<sup>8</sup> See *Sodium Gluconate, Gluconic Acid, and Derivative Products from the People's Republic of China: Postponement of Preliminary Determination in the Less-Than-Fair-Value Investigation*, 83 FR 19050 (May 1, 2018).

Fuyang did not provide Commerce with necessary information in the form and manner requested and otherwise impeded the proceeding. Furthermore, we find that Fuyang failed to act to the best of its ability in providing Commerce with the requested information, thereby warranting the application of an adverse inference. For further information, see “Use of Facts Otherwise Available and Adverse Inferences” in the Preliminary Decision Memorandum.<sup>9</sup>

*All-Others Rate*

With respect to the all-others rate, section 705(c)(5)(A) of the Act provides that if the countervailable subsidy rates established for all exporters and producers individually investigated are determined entirely in accordance with section 776 of the Act, Commerce may use any reasonable method to establish an all-others rate for exporters and producers not individually investigated. In this case, as noted above, the rates assigned to Fuyang, Hongyu Chemical, Kaison and Qingdao Dongxiao are based entirely on facts otherwise available, with an adverse inference, pursuant to section 776 of the Act. There is no other information on the record with which to determine an all-others rate. Accordingly, pursuant to section 705(c)(5)(A)(ii) of the Act, we are using “any reasonable method” to establish the all-others rate, and have established the all-others rate by applying the countervailable subsidy rates assigned to mandatory respondents Fuyang, Hongyu Chemical, Kaison and Qingdao Dongxiao.

Commerce summarizes its preliminary countervailable subsidy rates in the table below:

<b>Producer/Exporter</b>	<b>Subsidy Rate (Percent)</b>
Qingdao Dongxiao Enterprise Co., Ltd.	194.67
Shandong Fuyang Biotechnology Co.	194.67
Shandong Kaison Biochemical Co Ltd	194.67
Tongxiang Hongyu Chemical Co., Ltd.	194.67

<sup>9</sup> Section 782(i) of the Act requires Commerce to verify a respondent’s data as part of an investigation. However, because we are preliminarily applying adverse facts available, pursuant to sections 776(a) and (b) of the Act, to each of the respondents, we do not intend to conduct verification in this investigation.

All-Others	194.67
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### *Suspension of Liquidation*

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of GNA products from China as described in the scope of the investigation entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*.

Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

### *Public Comment*

Interested parties may submit case and rebuttal briefs, as well as request a hearing. Case briefs may be submitted no later than 30 days after the publication of this preliminary determination in the *Federal Register*, and rebuttal briefs, limited to issues raised in the case briefs, may be submitted no later than five days after the deadline for case briefs. Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW,

Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

*International Trade Commission Notification*

In accordance with section 703(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its determination. If Commerce's final determination is affirmative, the ITC will make its final determination before the later of 120 days after the date of this preliminary determination or 45 days after Commerce's final determination.

*Notification to Interested Parties*

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

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Gary Taverman  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations,  
performing the non-exclusive functions and duties of the  
Assistant Secretary for Enforcement and Compliance

May 2, 2018

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Date

## Appendix I

### Scope of the Investigation

The scope of this investigation covers all grades of sodium gluconate, gluconic acid, liquid gluconate, and glucono delta lactone (GDL) (collectively, GNA products), regardless of physical form (including, but not limited to substrates; solutions; dry granular form or powders, regardless of particle size; or as a slurry). The scope also includes GNA products that have been blended or are in solution with other product(s) where the resulting mix contains 35 percent or more of sodium gluconate, gluconic acid, liquid gluconate, and/or GDL by dry weight.

Sodium gluconate has a molecular formula of  $\text{NaC}_6\text{H}_{11}\text{O}_7$ . Sodium gluconate has a Chemical Abstract Service (CAS) registry number of 527-07-1, and can also be called “sodium salt of gluconic acid” and/or sodium 2, 3, 4, 5, 6 pentahydroxyhexanoate. Gluconic acid has a molecular formula of  $\text{C}_6\text{H}_{12}\text{O}_7$ . Gluconic acid has a CAS registry number of 526-95-4, and can also be called 2, 3, 4, 5, 6 pentahydroxycaproic acid. Liquid gluconate is a blend consisting only of gluconic acid and sodium gluconate in an aqueous solution. Liquid gluconate has CAS registry numbers of 527-07-1, 526-95-4, and 7732-18-5, and can also be called 2, 3, 4, 5, 6-pentahydroxycaproic acid-hexanoate. GDL has a molecular formula of  $\text{C}_6\text{H}_{10}\text{O}_6$ . GDL has a CAS registry number of 90-80-2, and can also be called d-glucono-1,5-lactone.

The merchandise covered by the scope of this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 2918.16.1000, 2918.16.5010, and 2932.20.5020. Merchandise covered by the scope may also enter under HTSUS subheadings 2918.16.5050, 3824.99.2890, and 3824.99.9295. Although the HTSUS subheadings and CAS registry numbers are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

## **Appendix II**

### **List of Topics Discussed in the Preliminary Decision Memorandum**

- I. Summary
- II. Background
- III. Scope Comments
- IV. Scope of the Investigation
- V. New Subsidy Allegation
- VI. Alignment
- VII. Injury Test
- VIII. Application of the CVD Law to Imports from China
- IX. Attribution of Subsidies
- X. Use of Facts Otherwise Available and Adverse Inferences
- XI. Calculation of the All-Others Rate
- XII. ITC Notification
- XIII. Recommendation

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