

Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Upon completion of this administrative review, pursuant to section 351.212(b) of the Department's regulations, the Department will calculate an assessment rate on all appropriate entries. Noksel has reported entered values for all of its sales of subject merchandise to the United States during the POR. Therefore, in accordance with section 351.212(b)(1) of the Department's regulations, we will calculate importer-specific duty assessment rates on the basis of the ratio of the total amount of dumping calculated for the examined sales to the total entered value of the examined sales of that importer. If Noksel's weighted-average dumping margin remains zero (or below *de minimis*) for the final results of this administrative review, we shall direct CBP to liquidate entries subject to this administrative review without regard to antidumping duties. *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012).

The Department clarified its "automatic assessment" regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by the respondent for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate un-reviewed entries at the all-others rate if there is no rate for the intermediate company involved in the transaction. *Id.*

Cash Deposit Requirements

Furthermore, the following cash deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of light-walled rectangular pipe and tube from Turkey entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Noksel will be the rate established in the final results of review; (2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the

company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review or the less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be the all-others rate of 27.04 percent *ad valorem* from the LTFV investigation. *See Notice of Antidumping Duty Order: Light-Walled Rectangular Pipe and Tube From Turkey*, 73 FR 31065 (May 30, 2008). These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double the antidumping duties.

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

Dated: May 30, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

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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 Results of the Second Administrative Review of the Antidumping Duty Order; and Partial Rescission of Administrative Review

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

SUMMARY: The Department of Commerce ("Department") is conducting the second administrative review of the antidumping duty order on citric acid and certain citrate salts ("citric acid") from the People's Republic of China

("PRC"), covering the period May 1, 2010, through April 30, 2011. The Department has preliminarily determined that during the period of review ("POR") the respondent in this proceeding did not make sales of subject merchandise at less than normal value ("NV"). If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. We will issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act").

DATES: Effective Date: June 6, 2012.

FOR FURTHER INFORMATION CONTACT:

Krishna Hill or Maisha Cryor, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482-4037 or (202) 482-5831, respectively.

Background

On May 29, 2009, the Department published in the **Federal Register** the antidumping duty order on citric acid from the PRC.¹ On June 28, 2011, the Department published the initiation of the second administrative review of the antidumping duty order on citric acid from the PRC,² and initiated review on two exporters: (1) Huangshi Xinghua Biochemical Co., Ltd. ("Xinghua") and (2) RZBC Co., Ltd., RZBC Imp. & Exp. Co., Ltd., RZBC (Juxian) Co., Ltd. (collectively "RZBC"). On May 20, 2011, and May 31, 2011, RZBC and Xinghua each requested to be selected as a mandatory respondent in this review, respectively.³ On July 8, 2011, Archer Daniels Midland Company, Cargill, Incorporated, and Tate & Lyle Ingredients Americas LLC ("Petitioners") submitted comments on

¹ See *Citric Acid and Certain Citrate Salts from Canada and the People's Republic of China: Antidumping Duty Orders*, 74 FR 25703 (May 29, 2009).

² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 76 FR 37781, 37785 (June 28, 2011) ("Initiation").

³ See Letter from RZBC to the Department, regarding "Citric Acid and Citrate Salt from People's Republic of China: Antidumping Duty Administrative Review Request," dated May 20, 2011; see also Letter from Xinghua to the Department, regarding "Citric Acid and Certain Citrate Salts from the People's Republic of China: Request for AD Administrative Review (05/01/10-04/30/2011)," dated May 31, 2011.

mandatory respondent selection and requested that the Department identify both RZBC and Xinghua as mandatory respondents in this review. On July 27, 2011, Xinghua withdrew its review request. Between August 16, 2011, and April 4, 2012, the Department sent the original antidumping questionnaire and supplemental questionnaires to RZBC. RZBC submitted timely questionnaire responses between October 17, 2011, and April 30, 2012.

On December 6, 2011, the Department issued a letter to all interested parties soliciting comments on selecting a surrogate country and surrogate values ("SVs").⁴ On December 20, 2011, we received comments on surrogate country selection from Petitioners.⁵ On January 3, 2012, we received rebuttal surrogate country comments from both RZBC and Petitioners.⁶ On January 6, 2012, we received SV comments from both RZBC and Petitioners.⁷ We received rebuttal SV comments from both RZBC and Petitioners on January 11, 2012.⁸

On January 10, 2012, the Department published a notice in the **Federal Register** extending the time limit for the preliminary results of review by 90 days to April 30, 2012, pursuant to section 751(a)(3)(A) of the Act.⁹ Additionally,

⁴ See the Department's letter to Interested Parties entitled, "Second Antidumping Duty Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China: Surrogate Country List," (December 6, 2011).

⁵ See RZBC's letter to the Department entitled, "Citric Acid and Citrate Salt from People's Republic of China: Surrogate Country Comments," (December 20, 2011); see also Petitioners' letter to the Department entitled, "Antidumping Duty Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China: Petitioners' Comments Concerning Surrogate Country Selection," (December 20, 2011).

⁶ See RZBC's letter to the Department entitled, "Citric Acid and Citrate Salt from People's Republic of China: Rebuttal Surrogate Country Comments," (January 3, 2012); see also Petitioners' letter to the Department entitled, "Antidumping Duty Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China: Petitioners' Rebuttal Comments Concerning Surrogate Country Selection," (January 3, 2012).

⁷ See RZBC's letter to the Department entitled, "Citric Acid and Citrate Salt from People's Republic of China: Surrogate Value Comments," (January 6, 2012); see also Petitioners' letter to the Department entitled, "Antidumping Duty Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China: Petitioners' Surrogate Value Comments," (January 6, 2012).

⁸ See RZBC's letter to the Department entitled, "Citric Acid and Citrate Salt from People's Republic of China: Rebuttal Surrogate Value Comments," (January 11, 2012); see also Petitioners' letter to the Department entitled, "Antidumping Duty Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China: Petitioners' Surrogate Value Rebuttal Comments," (January 11, 2012).

⁹ See *Citric Acid and Certain Citrate Salts from the People's Republic of China: Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review*, 77 FR 22560 (April 16, 2012).

on April 16, 2012, the Department published a notice in the **Federal Register** fully extending the deadline for the preliminary results by 30 days to May 30, 2012.¹⁰

Period of Review

The POR is May 1, 2010, through April 30, 2011.

Scope of the Order

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

Antidumping Duty Administrative Review, 77 FR 1455 (January 10, 2012).

¹⁰ See *Citric Acid and Certain Citrate Salts from the People's Republic of China: Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review*, 77 FR 22560 (April 16, 2012).

for convenience and customs purposes, the written description of the merchandise is dispositive.

Partial Rescission of the Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party that requested the review withdraws the request within 90 days of the date of publication of the initiation notice of the requested review. Further, pursuant to 19 CFR 351.213(d)(1), the Department is permitted to extend this time if it is reasonable to do so.

On July 27, 2011, Xinghua timely withdrew its request for an administrative review of its exports to the United States. Because no other parties requested a review of Xinghua's exports to the United States, the Department hereby rescinds the administrative review of citric acid with respect to Xinghua in accordance with 19 CFR 351.213(d)(1).

Non-Market-Economy Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as a non-market-economy ("NME") country.¹¹ In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an NME country shall remain in effect until revoked by the administering authority. Accordingly, the Department has calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

Surrogate Country

In antidumping proceedings involving NME countries, pursuant to section 773(c)(1) of the Act, the Department generally bases NV on the value of the NME producer's factors of production ("FOP"). In accordance with section 773(c)(4) of the Act, in valuing the FOP, the Department uses to the extent possible the prices or costs of the FOP in one or more market economy countries that are (1) at a level of economic development comparable to that of the NME country and (2) significant producers of merchandise comparable to the subject merchandise. Moreover, as we stated in Policy Bulletin No. 04.1,¹² it is the

¹¹ See, e.g., *Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 30758, 30760 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 60632 (October 25, 2007).

¹² See the Department's Policy Bulletin No. 04.1, regarding, "Non-Market Economy Surrogate Country Selection Process," (March 1, 2004)

Department's practice to select an appropriate surrogate country based on the availability and reliability of data from these countries.

In the instant review, the Department has identified Colombia, Indonesia, Peru, the Philippines, South Africa, Thailand, and Ukraine as countries that are at a level of economic development comparable to the PRC.¹³ The Department uses per capita gross national income ("GNI") as the primary basis for determining economic comparability.¹⁴ Once the countries that are economically comparable to the PRC have been identified, the Department selects an appropriate surrogate country by determining whether an economically comparable country is a significant producer of comparable merchandise and whether data for valuing FOPs are both available and reliable.

With respect to interested parties' surrogate country comments, Petitioners argued that Thailand is the most appropriate surrogate country from which to derive surrogate factor values for the PRC because Thailand: (a) Has a per capita GNI which is economically most comparable to that of the PRC when compared with the other considered countries; (b) is also a significant producer of citric acid; (c) provides robust data sources, and in certain instances more specific, to value RZBC's FOPs; and (d) the potential Thai surrogate company is most representative of RZBC when compared with the potential Indonesian surrogate company.¹⁵ RZBC recommended that the Department select Indonesia, consistent with the Department's determination in the original investigation and the first administrative review that Indonesia is economically comparable to the PRC and is a significant producer of identical and comparable merchandise.¹⁶

The Department has determined that it is appropriate to use Indonesia as a surrogate country, pursuant to section

("Policy Bulletin 04.1"), available on the Department's Web site at <http://ia.ita.doc.gov/policy/bull04-1.html>.

¹³ See the Department's letter to Interested Parties entitled, "Second Antidumping Duty Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China: Surrogate Country List," (December 6, 2011).

¹⁴ See Policy Bulletin No. 04.1.

¹⁵ See Petitioners' letter to the Department entitled, "Antidumping Duty Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China: Petitioners' Comments Concerning Surrogate Country Selection," (December 20, 2011).

¹⁶ See RZBC's letter to the Department entitled, "Citric Acid and Citrate Salt from People's Republic of China: Surrogate Country Comments," (December 20, 2011).

773(c)(4) of the Act, based on the following: (1) It is at a comparable level of economic development to the PRC; (2) it is a significant producer of comparable merchandise, and (3) the Department has reliable data from Indonesia that it can use to value the FOPs.¹⁷ Additionally, the Indonesian surrogate company offers greater detail and more reliable financial ratios when compared with the Thai surrogate company. Accordingly, we have calculated NV using Indonesian prices when available and appropriate to value each respondent's FOPs.¹⁸ In certain instances where Indonesian SVs were not deemed the best available data, we have relied on Thai SVs in the alternative. Thailand is at a similar level of economic development to the PRC and is a significant producer of comparable merchandise.¹⁹

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results of an administrative review, interested parties may submit publicly available information to value the FOPs within 20 days after the date of publication of these preliminary results.²⁰

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 assigned a single antidumping duty rate.²¹ It is the

¹⁷ See Memorandum from Krisha Hill to Abdela Elouaradia regarding "Second Antidumping Duty Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China: Selection of a Surrogate Country," dated May 30, 2012 ("Surrogate Country Memorandum").

¹⁸ See Memorandum from Krisha Hill and Maisha Cryon to Robert Bolling, regarding "Preliminary Results of the Second Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China: Surrogate Value Memorandum," dated May 30, 2012 ("Surrogate Value Memorandum"); see also "Factor Valuations" section, below.

¹⁹ See Surrogate Value Memorandum at 2.

²⁰ In accordance with 19 CFR 351.301(c)(1), for the final results of this administrative review, 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, 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 SV 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.

²¹ See, e.g., *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed*

Department's policy to assign all exporters of merchandise subject to review 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* government control over export activities. The Department analyzes each entity exporting the subject merchandise under a test arising from *Sparklers* as further developed in *Silicon Carbide*.²² 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.

In order to demonstrate separate-rate status eligibility, the Department normally requires entities, for whom a review was requested, and who were assigned a separate rate in a previous segment of this proceeding, to submit a separate-rate certification stating that they continue to meet the criteria for obtaining a separate rate.²³ For entities that were not assigned a separate rate in the previous segment of a proceeding, to demonstrate eligibility, the Department requires a separate-rate application.²⁴ In this instance, the Department received a completed response to the Section A portion of the NME antidumping questionnaire from RZBC, which contains information pertaining to the company's eligibility for a separate rate.²⁵

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

Presses From the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 75 FR 24892, 24899 (May 6, 2010), unchanged in *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 59217 (September 27, 2010).

²² See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("Sparklers"), as further developed in the *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").

²³ See Initiation.

²⁴ Id.

²⁵ See Letter from RZBC to the Department, regarding "Citric Acid and Citrate Salt from the People's Republic of China: Section A, C and D Questionnaire Response," dated October 17, 2011 ("Original Response") at A-2 to A-13.

enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies.²⁶

The evidence provided by RZBC supports a preliminary finding of *de jure* absence of government control based on the following: (1) An absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies; and (3) there are formal measures by the government decentralizing control of the companies.²⁷

b. Absence of *de Facto* Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.²⁸

The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control over export activities that would preclude the Department from assigning separate rates. For RZBC, we determine that the evidence on the record supports a preliminary finding of an absence of *de facto* government control based on record statements and supporting documentation showing the following: (1) RZBC sets its own export prices independent of the government and without the approval of a government authority; (2) RZBC retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; (3) RZBC has the authority to negotiate and sign contracts and other agreements; and (4) RZBC has autonomy from the government regarding the selection of management.²⁹ Additionally, RZBC's

questionnaire responses indicate that their pricing during the POR does not involve coordination among exporters.

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

Targeted Dumping

On March 8, 2012, Petitioners alleged targeted dumping by RZBC and stated that there are patterns of export prices for comparable merchandise that differ significantly among time periods and regions.³⁰ Petitioners noted that they conducted their own targeted dumping analysis of RZBC's U.S. sales using the Department's targeted dumping methodology as applied in *Steel Nails* and modified in *Wood Flooring*.³¹ Based on their own analysis, Petitioners recommended that the Department apply average-to-transaction method to calculate RZBC's dumping margin, as the patterns of pricing differences cannot be taken into account using the average-to-average margin calculation methodology.³²

For purposes of these preliminary results, the Department did not conduct a targeted dumping analysis. In calculating the preliminary weighted-average dumping margin, the Department applied the calculation methodology adopted in *Final Modification for Reviews*.³³ In particular, the Department compared monthly weighted-average export prices

²⁶ See Letter from Petitioners to the Department, regarding "Citric Acid And Certain Citrate Salts From The People's Republic Of China: Targeted Dumping Allegation," dated March 8, 2012.

²⁷ See *Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 33977 (June 16, 2008) and *Certain Steel Nails from the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value*, 73 FR 33985 (June 16, 2008) ("Steel Nails"); see also *Multilayered Wood Flooring From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 64318 (October 18, 2011) ("Wood Flooring").

²⁸ RZBC submitted untimely comments concerning targeted dumping which were not taken into consideration for the preliminary results, however the Department shall consider these comments for the final results. See Memorandum to the File, through Robert Bolling, Program Manager, from, Krisha Hill, Analyst, Regarding "RZBC's Pre-Preliminary Results Comments," dated May 14, 2012.

²⁹ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012) ("Final Modification for Reviews").

(or constructed export prices) with monthly weighted-average normal values and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin. Application of this methodology in these preliminary results affords parties an opportunity to meaningfully comment on the Department's implementation of this recently adopted methodology in the context of this administrative review. The Department intends to continue to consider, pursuant to 19 CFR 351.414(3)(c), whether another method is appropriate in this administrative review in light of both parties' pre-preliminary comments and any comments on the issue that parties may include in their case briefs.

Fair Value Comparisons

To determine whether RZBC's sales of subject merchandise were made at less than NV, we compared export price ("EP") to NV, as described in the "Export Price" and "Normal Value" sections below.³⁴ See section 773(a)(1)(B)(ii) of the Act; 19 CFR 351.414(c)(1) and (d).

Export Price

In accordance with section 772(a) of the Act, EP is "the price at which subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States," as adjusted under section 772(c) of the Act. We used EP methodology, in accordance with section 772(a) of the Act, for sales in which the subject merchandise was first sold prior to importation by the exporter outside the United States directly to an unaffiliated purchaser in the United States and for sales in which constructed export price was not otherwise indicated.

We based EP on the price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight, marine insurance, and domestic and market-economy brokerage and handling. We valued

³⁴ In these preliminary results, the Department applied the weighted-average dumping margin calculation method adopted in *Final Modification for Reviews*. In particular, the Department compared monthly weighted-average EPs (or constructed EPs) with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

²⁶ See *Sparklers*, 56 FR at 20589.

²⁷ See Original Response at A-2 to A-13.

²⁸ See *Silicon Carbide*, 59 FR at 22586-87; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

²⁹ See Original Response at A-2 to A-13.

brokerage and handling using a price list of export procedures necessary to export a standardized cargo of goods in Indonesia. The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in India as reported in "Doing Business 2011: Indonesia" published by the World Bank.³⁵

Normal Value

We compared NV to individual EP transactions in accordance with section 777A(d)(2) of the Act, as appropriate. Section 773(c)(1) of the Act provides that the Department shall determine NV using an FOP methodology if: (1) The merchandise is exported from an NME country; and (2) 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. When determining NV in an NME context, the Department will base NV on FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. Under section 773(c)(3) of the Act, FOPs include but are not limited to: (1) Hours of labor required; (2) quantities of raw materials employed; and (3) representative capital costs. The Department used FOPs reported by RZBC for materials, labor, packing and by-products.

Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on FOPs reported by RZBC for the POR. In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to find an appropriate SV to value FOPs, but when a producer sources an input from a market economy and pays for it in market economy currency, the Department normally will value the factor using the actual price paid for the input.³⁶ To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available SVs (except as discussed below). In selecting SVs, we considered the quality, specificity, and contemporaneity of the data.³⁷ As

appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to import SVs surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory, where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F.3d 1401, 1407–08 (Fed. Cir. 1997).

For the preliminary results, except where noted below, we used data from the Indonesian and Thai import statistics in the Global Trade Atlas ("GTA") and other publicly available Indonesian and Thai sources in order to calculate SVs for RZBC's FOPs (*i.e.*, direct materials, energy, and packing materials) and certain movement expenses. As Indonesia is the primary surrogate country, we used Indonesian data and applied Thai data where there were no usable Indonesian data. 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, SVs which are non-export average values, most contemporaneous with the POR, product-specific, and tax-exclusive.³⁸ The record shows that Indonesian and Thai import statistics obtained through GTA are contemporaneous with the POR, product-specific, and tax-exclusive.³⁹ In those instances where we could not obtain publicly available information contemporaneous to the POR with which to value factors, we adjusted the SVs using, where appropriate, the Indonesian Wholesale Price Index, as published by the Organization for Economic Cooperation and Development.

In accordance with legislative history, the Department continues to apply its long-standing practice of disregarding SVs if it has a reason to believe or suspect the source data may be

subsidized.⁴⁰ In this regard, the Department has previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.⁴¹ Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, the Department finds that it is reasonable to infer that all exporters from India, Indonesia, South Korea and Thailand may have benefitted from these subsidies. Therefore, the Department has not used prices from India, Indonesia, South Korea and Thailand in calculating the import-based SVs.

Additionally, we disregarded prices from NME countries.⁴² Finally, imports that were labeled as originating from an "unspecified" country were excluded from the average value, because the Department could not be certain that they were not from either an NME country or a country with generally available export subsidies.⁴³

We valued truck freight expenses using a price list for domestic shipments from the Indonesian shipping company, PT Mantap Abiah Abadi.

To calculate the labor input, we based our calculation provided by the Department in *Labor Methodologies*, which recommends using single-country labor cost and compensation

³⁵ See Surrogate Value Memorandum at 6.

³⁶ See 19 CFR 351.408(c)(1); see also *Shakeproof Assembly Components Div of Ill Tool Works v. United States*, 268 F.3d 1376, 1382–1383 (Fed. Cir. 2001) (affirming the Department's use of market-based prices to value certain FOPs).

³⁷ See, e.g., *Fresh Garlic From the People's Republic of China: Final Results of Antidumping Duty New Shipper Review*, 67 FR 72139 (December 4, 2002), and accompanying Issues and Decision Memorandum at Comment 6; and *Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms From the People's Republic of China*, 66 FR 31204 (June 11, 2001), and accompanying Issues and Decision Memorandum at Comment 5.

³⁸ 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).

³⁹ See Surrogate Value Memorandum at 3.

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

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

⁴² See *id.*

data from Chapter 6A of the International Labor Organization (“ILO”).⁴⁴ However, in this case, the Department notes that Chapter 6A does not contain recent Indonesian labor data from the ILO Yearbook. Therefore, for the preliminary results of this administrative review, the Department is valuing labor using an Indonesian industry-specific wage rate based on labor cost and compensation data from Chapter 5B of the ILO. The Department calculated an Indonesian industry-specific wage rate of 8423.6133 Rupiah per hour for the preliminary results. Specifically, the Department has calculated the wage rate using data provided to the ILO under Sub-Classification 24 of the ISIC—Revision 3-D standard, and inflated this wage rate using the Indonesian Consumer Price Index as published in the IMF’s International Financial Statistics. The Department finds the description under Sub-Classification 24 of the ISIC—Revision 3-D (“Manufacture of Chemicals and Chemical Products”) to be the best available wage rate SV source on the record because it is specific and derived from industries that produce merchandise comparable to the subject merchandise. A full description of the industry-specific wage rate calculation methodology is provided in the Surrogate Value Memorandum.⁴⁵

We were unable to segregate and, therefore, were unable to exclude energy costs from the calculation of the surrogate financial ratios. Accordingly, for the preliminary results, we have disregarded the respondents’ energy inputs (electricity, coal and steam) in the calculation of NV, in order to avoid double-counting energy costs that have necessarily been captured in the surrogate financial ratios.⁴⁶

To value factory overhead, selling, general, and administrative expenses, and profit, we used audited financial statements for the year ending December 2010 of PT Budi Acid Jaya TBK, a producer of comparable merchandise from Indonesia.⁴⁷ The Department may

⁴⁴ See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011) (“Labor Methodologies”).

⁴⁵ See Surrogate Value Memorandum at 5.

⁴⁶ See Citric Acid and Certain Citrate Salts from the People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value, 74 FR 16838 (April 13, 2009) and accompanying Issues and Decision Memorandum, at Comment 2.

⁴⁷ See Surrogate Value Memorandum at 4; see also Memorandum from Maisha Cryor and Krisha Hill to Robert Bolling, regarding “Second Administrative Review of the Antidumping Duty Order on Citric Acid and Certain Citrate Salts from the People’s Republic of China: Analysis of the

consider other publicly available financial statements for the final results, as appropriate.

RZBC reported that it has recovered by-products in their production of subject merchandise and successfully demonstrated that all of them have commercial value; therefore, we have granted a by-product offset for the quantities of each respondent’s reported by-products, valued using Indonesian GTA data.

Export Subsidy Adjustment

Section 772(c)(1)(C) of the Act states that U.S. price “shall be increased by the amount of any countervailing duty imposed on the subject merchandise * * * to offset an export subsidy.”⁴⁸ The Department determined in its preliminary results of the companion countervailing duty administrative review that RZBC’s merchandise benefited from export subsidies.⁴⁹ Therefore, we have increased RZBC’s U.S. price for countervailing duties imposed attributable to export subsidies, where appropriate.⁵⁰

Currency Conversion

Where 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.

Preliminary Results of Review

The weighted-average dumping margin for RZBC is as follows:

| Exporter | Margin |
|--|--------|
| RZBC Co., Ltd./RZBC Imp. & Exp. Co., Ltd./RZBC (Juxian) Co., Ltd | 0.00 |

Disclosure

The Department intends to disclose calculations performed for these preliminary results to the parties within 10 days of the date of the public announcement of the results of this review in accordance with 19 CFR 351.224(b).

Preliminary Results Margin Calculation for RZBC Co., Ltd., RZBC Import & Export Co., Ltd., and RZBC (Juxian) Co., Ltd., dated May 30, 2012 (“Preliminary Analysis Memo”).

⁴⁸ See, e.g., Carbazole Violet Pigment 23 from India: Final Results of Antidumping Duty Administrative Review, 75 FR 38076, 38077 (July 1, 2010) and accompanying Issues and Decision Memorandum at Comment 1.

⁴⁹ See Citric Acid and Certain Citrate Salts from the People’s Republic of China: Preliminary Results of Countervailing Duty Administrative Review, dated May 30, 2012 (not yet published).

⁵⁰ See Preliminary Analysis Memo.

Comments

Interested parties may submit written comments no later than 30 days after the date of publication of these preliminary results of review.⁵¹ Rebuttal comments must be limited to the issues raised in the written comments and may be filed no later than five days after the time limit for filing the case briefs.⁵² 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, filed electronically using Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”). An electronically filed document must be received successfully in its entirety by the Department’s electronic records system, IA ACCESS, by 5 p.m. Eastern Standard Time within 30 days after the date of publication of this notice.⁵³ 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, we will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230, at a time and location to be determined.⁵⁴ Parties should confirm by telephone the date, time, and location of the hearing. The Department intends to issue the final results of the administrative review, which will include the results of its analysis of issues raised in the briefs, within 120 days of publication of these preliminary results, in accordance with section 751(a)(3)(A) of the Act, unless the time limit is extended.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.⁵⁵ The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. For any individually examined respondent whose weighted-average dumping margin is above *de minimis* (*i.e.*, less than 0.50 percent) in the final results of this review, we will calculate an importer-specific assessment rate on the basis of the ratio of the total amount of antidumping duties calculated for the

⁵¹ See 19 CFR 351.309(c)(1)(ii).

⁵² See 19 CFR 351.309(d).

⁵³ See 19 CFR 351.310(c).

⁵⁴ See 19 CFR 351.310.

⁵⁵ See 19 CFR 351.212(b).

importer's examined sales and the total entered value of sales, in accordance with 19 CFR 351.212(b)(1).⁵⁶ Where we calculate a margin by dividing the total dumping margins for reviewed sales to that party by the total sales quantity associated with those transactions, in this and future reviews, we will direct CBP to assess importer-specific assessment rates based on the resulting per-unit (*i.e.*, per-kilogram) rates by the weight in kilograms of each entry of the subject merchandise during the POR. Where an importer (or customer)-specific per-unit rate is greater than *de minimis*, we will apply the assessment rate to the entered value of the importer's/customer's entries during the POR.⁵⁷ Where an importer (or customer)-specific per-unit rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.⁵⁸ We intend to instruct CBP to liquidate entries containing subject merchandise exported by the PRC-wide entity at the PRC-wide rate we determine in the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) For RZBC the cash deposit rate will be its respective rate established in the final results of this review, except if the rate is zero or *de minimis* no cash deposit will be required; (2) for previously investigated or reviewed PRC, and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 156.87 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied those non-PRC exporters. These deposit requirements,

⁵⁶ In these preliminary results, the Department applied the assessment rate calculation method adopted in *Final Modification for Reviews*, *i.e.*, on the basis of monthly average-to-average comparisons using only the transactions associated with that importer with offsets being provided for non-dumped comparisons.

⁵⁷ See 19 CFR 351.212(b)(1).

⁵⁸ See 19 CFR 351.106(c)(2).

when imposed, shall remain in effect until further notice.

Notification of Interested Parties

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and this notice are in accordance with sections 751(a)(1) and (3) and 777(i) of the Act, and 19 CFR 351.213.

Dated: May 30, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012-13599 Filed 6-5-12; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-929]

Small Diameter Graphite Electrodes From the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order and Extension of Final Determination

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

SUMMARY: The Department of Commerce ("Department") preliminarily determines that certain small diameter graphite electrodes ("SDGE") are being exported from the United Kingdom ("U.K.") to the United States by UK Carbon and Graphite Co., Ltd. ("UKCG") in circumvention of the antidumping duty order on SDGE from the People's Republic of China ("PRC"),¹ as provided in section 781(b) of the Tariff Act of 1930, as amended ("the Act").

DATES: Effective Date: June 6, 2012.

FOR FURTHER INFORMATION CONTACT:

Brendan Quinn, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-5848.

¹ See *Antidumping Duty Order: Small Diameter Graphite Electrodes from the People's Republic of China*, 74 FR 8775 (February 26, 2009) ("SDGE Order").

SUPPLEMENTARY INFORMATION:

Background

On October 12, 2010, SGL Carbon LLC and Superior Graphite Co. ("Petitioners") filed a submission alleging that UKCG, a company located in the United Kingdom, is engaged in circumvention of the *SDGE Order* by importing artificial graphite rods/unfinished SDGE components² from the PRC to the United Kingdom, performing minor completion and assembly on these items, and exporting finished subject merchandise to the United States as SDGE of U.K. origin.³ In this submission, Petitioners requested that the Department initiate a scope inquiry to clarify whether the unfinished graphitized SDGE components imported by UKCG from the PRC are included in the *SDGE Order*. In the alternative, should the Department find it appropriate based on the available information, Petitioners requested that the Department initiate an anticircumvention proceeding, pursuant to 19 CFR 351.225(h), to determine whether the importation of the PRC-origin SDGE components by UKCG for finishing in the United Kingdom and subsequent sale to the United States constitutes circumvention of the *SDGE Order*, as defined in section 781(b) of the Act.

On March 18, 2011, the Department initiated an anticircumvention inquiry on imports of SDGE exported by UKCG.⁴ This inquiry covers the period July 1, 2009, through June 30, 2010.

Questionnaires

Subsequent to the initiation of this proceeding, the Department issued questionnaires to UKCG regarding the nature of its sales of SDGE to the United States and sourcing of inputs from the

² According to Petitioners, the unfinished merchandise in question is defined in UKCG's submissions as, *e.g.*, "graphite electrodes," "rods," "graphite billets," graphite shapes," "synthetic graphite electrode rod," and "re-machined graphite electrode." Petitioners characterize these inputs as "unfinished SDGE," whereas UKCG refers to them as "blanks" or "artificial graphite." For customs purposes, these materials are, generally, classified under Harmonized Tariff Schedule ("HTS") sub-heading 3801.10.00, defined as "Artificial Graphite; Colloidal or Semi-Colloidal Graphite; Preparations Based on Graphite or Other Carbon in the Form of Pastes, Blocks, Plates and Other Semi-Finished Goods." For ease of reference, these materials are referred to as "unfinished SDGE components" or "artificial graphite rods" throughout this notice.

³ See Letter from Petitioners to the Department entitled, "Small Diameter Graphite Electrodes from the People's Republic of China," dated October 12, 2010 ("Petitioners' Initiation Request").

⁴ See *Small Diameter Graphite Electrodes from the People's Republic of China: Initiation of Anticircumvention Inquiry*, 76 FR 14910, 14912, 14916-17 (March 18, 2011) ("Initiation Notice").