
DEPARTMENT OF COMMERCE**International Trade Administration**

[A-570-937]

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

AGENCY: International Trade Administration, Department of Commerce.

DATES: *Effective Date:* April 13, 2009.

SUMMARY: We invited interested parties to comment on our preliminary determination of sales at LTFV. The Department of Commerce ("the Department") has determined that citric acid and certain citrate salts ("citric acid") from the People's Republic of China ("PRC") is being, or is likely to be, sold in the United States at LTFV as provided in section 735 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at less than

fair value ("LTFV") are shown in the "Final Determination Margins" section of this notice.

FOR FURTHER INFORMATION CONTACT: Lilit Astvatsatrian 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) 482-6412 or (202) 482-4037, respectively.

SUPPLEMENTARY INFORMATION:

Case History

The Department published its preliminary determination of sales at LTFV on November 20, 2008. *See 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*, 73 FR 70328 (November 20, 2008) ("Preliminary Determination"). The period of investigation ("POI") is October 1, 2007, to March 31, 2008.

Between January 7 and 20, 2009, the Department conducted verifications of TTCA Co., Ltd. (aka Shandong TTCA Biochemistry Co., Ltd.) ("TTCA") and Yixing Union Biochemical Co., Ltd. ("Yixing Union") ("respondents"). *See* the "Verification" section below for additional information.

We invited interested parties to comment on the *Preliminary Determination*. On February 25, 2009, Archer Daniels Midland Company, Cargill, Incorporated, and Tate & Lyle Americas, Inc. (collectively, "Petitioners"), TTCA, and Yixing Union filed case briefs. On March 2, 2009, Petitioners, TTCA, and Yixing Union filed rebuttal briefs. The Department held a hearing on March 12, 2009.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by TTCA and Yixing Union for use in our final determination. *See* the Department's verification reports on the record of this investigation in the Central Records Unit ("CRU"), Room 1117 of the main Department building, with respect to these entities. For all verified companies, we used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by respondents.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs, and at the hearing, by parties to this investigation are addressed in the "Issues and Decision

Memorandum for the Investigation of Citric Acid and Certain Citrate Salts from the People's Republic of China," dated concurrently with this notice and which is hereby adopted by this notice ("Issues and Decision Memorandum"). A list of the issues which parties raised and to which we respond in the Issues and Decision Memorandum is attached to this notice as an Appendix. The Issues and Decision Memorandum is a public document and is on file in the CRU, and is accessible on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of information on the record of this investigation, we have made changes to the margin calculations for the final determination for all mandatory respondents.

General Issues

- We have updated the Indonesian and Indian inflator information for the wholesale price index ("WPI") as published in the *International Financial Statistics* of the International Monetary Fund. *See* Final Determination of the Antidumping Duty Investigation of Citric Acid and Certain Citrate Salts from the People's Republic of China: Surrogate Value Memorandum, dated April 6, 2009 ("Final SV Memo"), at 2. All inflated or deflated surrogate values were revised as a result of the updated inflators. *See* Issues and Decision Memorandum, at Comment 6.

- For the final determination, we deflated the surrogate values for marine insurance and truck freight. *See* Final SV Memo, at 2, and Issues and Decision Memorandum, at Comment 4.

- We have revised the surrogate value for sodium lignosulphonate. *See* Final SV Memo, at 3, and Issues and Decision Memorandum, at Comment 11B.

- We have revised the surrogate financial ratios by including interest expenses in the SG&A calculation. *See* Final SV Memo, at 3, and Issues and Decision Memorandum, at Comment 3.

- Consistent with our practice,¹ we have excluded beginning and ending finished goods inventories from the calculation of surrogate financial ratios

¹ *See, e.g., Wooden Bedroom Furniture from the People's Republic of China: Final Results of the 2004-2005 Semi-Annual New Shipper Reviews*, 71 FR 70739 (December 6, 2006) and accompanying Issues and Decision Memorandum, at Comment 5; and *Malleable Iron Pipe Fittings from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 76234, 76238 (December 23, 2005).

for the final determination. *See* Final SV Memo, at 3.

- Based on the surrogate financial company's treatment of certain depreciation and warehouse expenses as selling expenses, and depreciation and repairs and maintenance as general and administrative expenses, we have reclassified these expenses from the surrogate factory overhead ratio to the surrogate selling, general, and administrative ratio calculation for the final determination. *See* Final SV Memo, at 3-4.

- We were unable to segregate and, therefore, were unable to exclude energy costs from the calculation of the surrogate financial ratios. Accordingly, we have disregarded the respondents' energy inputs (coal and steam by-product offsets for TTCA, electricity and steam for Yixing Union) in the calculation of normal value for purposes of the final determination, in order to avoid double-counting energy costs which have necessarily been captured in the surrogate financial ratios. *See* Investigation of Citric Acid and Certain Citrate Salts from the People's Republic of China: Analysis of the Final Determination Margin Calculation for TTCA Co., Ltd., (a.k.a. Shandong TTCA Biochemistry Co., Ltd.), dated April 6, 2009 ("TTCA Final Analysis Memo"), at 2; *see also* Investigation of Citric Acid and Certain Citrate Salts from the People's Republic of China: Analysis of the Final Determination Margin Calculation for Yixing Union Biochemical Co., Ltd., dated April 6, 2009 ("Yixing Union Final Analysis Memo"), at 1-2; and Issues and Decision Memorandum at Comment 2.

Company-Specific Changes Since the Preliminary Determination

TTCA

- For the final determination, we have adjusted TTCA's indirect labor. *See* TTCA Final Analysis Memo at 1-2 and Issues and Decision Memorandum, at Comment 10.

- For the final determination, we have added TTCA's billing adjustment expense to the gross unit price. *See* TTCA Final Analysis Memo, at 2 and Issues and Decision Memorandum, at Comment 11A.

- We have included TTCA's low protein scrap by-product in the calculation of the normal value. *See* TTCA Final Analysis Memo, at 2-3 and Issues and Decision Memorandum, at Comment 15.

- We have adjusted TTCA's reported consumption of calcium carbonate to account for the under-reported usage

rate. See TTCA Final Analysis Memo, at 3.

Yixing Union

- We have valued Yixing Union's ocean freight using the reported international freight. See Yixing Union Final Analysis Memo.

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.

Surrogate Country

In the *Preliminary Determination*, we stated that we had selected Indonesia as

the appropriate surrogate country to use in this investigation for the following reasons: (1) it is a significant producer of comparable merchandise; (2) it is at a similar level of economic development comparable to that of the PRC; and (3) we have reliable data from Indonesia that we can use to value the factors of production. See *Preliminary Determination*. For the final determination, we continue to use Indonesia as the primary surrogate country. See *Issues and Decision Memorandum*, at Comment 1.

Separate Rates

In proceedings involving non-market-economy ("NME") countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an 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. 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 amplified by *Notice of 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*"), and 19 CFR 351.107(d).

In the *Preliminary Determination*, we found that TTCA, Yixing Union and 11 separate rate applicants demonstrated their eligibility for separate rate status. For the final determination, we continue to find that the evidence placed on the record of this investigation by TTCA, Yixing Union, and the separate rate applicants demonstrate both a *de jure* and *de facto* absence of government control, with respect to their respective exports of the merchandise under investigation, and, thus continue to find that they are eligible for separate rate status.

Use of Facts Available

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 sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the

Act, use facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act provides that if an interested party "promptly after receiving a request from (the Department) for information, notifies (the Department) that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative forms in which such party is able to submit the information," the Department may modify the requirements to avoid imposing an unreasonable burden on that party.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e), disregard all or part of the original and subsequent responses, as appropriate.

Section 782(e) of the Act states that the Department shall not decline to consider information deemed "deficient" under section 782(d) if: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Furthermore, section 776(b) of the Act states that if the Department "finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission * * *, in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available." See also *Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act (URAA)*, H.R. Rep. No. 103-316, Vol. 1 at 870 (1994).

For this final determination, in accordance with sections 776(a)(2)(A), (B) and (D) and 776(b) of the Act, we have determined that the use of adverse

facts available (“AFA”) is warranted for the PRC-wide entity, as discussed below.

The PRC-Wide Rate

Because we begin with the presumption that all companies within an NME country are subject to government control and because only the companies listed under the “Final Determination Margins” section below have overcome that presumption, we are applying a single antidumping rate—the PRC-wide rate—to all other exporters of subject merchandise from the PRC. See, e.g., *Synthetic Indigo from the People’s Republic of China: Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 25706 (May 3, 2000). The PRC-wide rate applies to all entries of subject merchandise except for entries from the respondents identified as receiving a separate rate in the “Final Determination Margins” section below. In the *Preliminary Determination*, the Department found that the PRC-wide entity did not respond to our requests for information because record evidence indicates there were more exporters of citric acid from the PRC during the POI than those that were found to be eligible for a separate rate and responded to the Q&V questionnaire or the full antidumping questionnaire. Therefore, in the *Preliminary Determination* we treated these PRC exporters as part of the PRC-wide entity because they did not demonstrate that they operate free of government control over their export activities. No additional information was placed on the record with respect to these entities after the *Preliminary Determination*. In addition, because the PRC-wide entity has not provided the Department with the requested information, pursuant to section 776(a)(2)(A) and (C) of the Act, the Department continues to find that the use of facts available is appropriate to determine the PRC-wide rate. Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply

with requests for information. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation*, 65 FR 5510, 5518 (February 4, 2000). See also *SAA* at 870. We have determined 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 finds that, in selecting from among the facts otherwise available, an adverse inference is warranted.

In the *Preliminary Determination*, as facts available, we assigned to the PRC-wide entity the margin alleged in the petition, i.e., 156.87 percent. See *Preliminary Determination*, 73 FR at 70332. For the final determination, we have continued to assign to the PRC-wide entity the rate of 156.87 percent.

Corroboration

Section 776(c) of the Act provides that, when the Department relies on secondary information in using the facts otherwise available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. We have interpreted “corroborate” to mean that we will, to the extent practicable, examine the reliability and relevance of the information submitted. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil*, 65 FR 5554, 5568 (February 4, 2000); see, e.g., *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 *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: Final Results of Antidumping Duty*

Administrative Reviews and Termination in Part, 62 FR 11825 (March 13, 1997). The Department’s reliance on the petition rate to determine an AFA rate is subject to the requirement to corroborate secondary information.

At the *Preliminary Determination*, in accordance with section 776(c) of the Act, we corroborated our AFA margin by comparing the U.S. prices and normal values from the petition to the U.S. prices and normal values for the mandatory respondents. Similarly, for the final determination, we have also compared the U.S. prices and normal values from the petition (that were used to derive the margin for our initiation of this proceeding) to the U.S. prices and normal values for the mandatory respondents. We found that the U.S. prices and normal values used to calculate the initiation margin were within the range of net U.S. prices and normal values, respectively, used in our margin calculations for the mandatory respondents in this investigation.

Because no parties commented on the selection of the PRC-wide rate, we continue to find that the margin of 156.87 percent has probative value. Accordingly, we find that the rate of 156.87 percent is corroborated within the meaning of section 776(c) of the Act.

Combination Rates

In the *Preliminary Determination*, the Department stated that it would calculate combination rates for the respondents that are eligible for a separate rate in this investigation. See *Preliminary Determination*, 73 FR at 62961. This practice is described in Policy Bulletin 05.1, “Separate Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries” available at <http://ia.ita.doc.gov/policy/index.html>.

Final Determination Margins

We determine that the following percentage weighted-average margins exist for the POI:

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.)	129.08
Yixing Union Biochemical Co., Ltd	Yixing Union Biochemical Co., Ltd	94.61
Anhui BBBCA Biochemical Co., Ltd	Anhui BBBCA Biochemical Co., Ltd	111.85
Anhui BBBCA Biochemical Co., Ltd	China BBBCA Maanshan Biochemical Corp	111.85
A.H.A. International Co., Ltd	Yixing Union Biochemical Co., Ltd	111.85
A.H.A. International Co., Ltd	Nantong Feiyu Fine Chemical Co., Ltd	111.85
High Hope International Group Jiangsu Native Produce IMP & EXP Co., Ltd.	Yixing Union Biochemical Co., Ltd	111.85
Huangshi Xinghua Biochemical Co., Ltd	Huangshi Xinghua Biochemical Co., Ltd	111.85

Exporter	Producer	Margin
Lianyungang JF International Trade Co., Ltd	TTCA Co., Ltd. (a.k.a. Shandong TTCA Biochemistry Co., Ltd.).	111.85
Laiwu Taihe Biochemistry Co., Ltd	Laiwu Taihe Biochemistry Co., Ltd	111.85
Lianyungang Shuren Scientific Creation Import & Export Co., Ltd.	Lianyungang Great Chemical Industry Co., Ltd	111.85
Penglai Marine Bio-Tech Co. Ltd	Penglai Marine Bio-Tech Co. Ltd	111.85
RZBC Imp & Exp. Co., Ltd./RZBC Co., Ltd./RZBC (Juxian) Co., Ltd.	RZBC Co., Ltd	111.85
RZBC Imp & Exp. Co., Ltd./RZBC Co., Ltd./RZBC (Juxian) Co., Ltd.	RZBC (Juxian) Co., Ltd	111.85
RZBC Imp & Exp. Co., Ltd./RZBC Co., Ltd./RZBC (Juxian) Co., Ltd.	Lianyungang Great Chemical Industry Co., Ltd	111.85
Shihezi City Changyun Biochemical Co., Ltd	Shihezi City Changyun Biochemical Co., Ltd	111.85
Weifang Ensign Industry Co., Ltd	Weifang Ensign Industry Co., Ltd	111.85
PRC-Wide Entity	156.87

Disclosure

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

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing U.S. Customs and Border Protection (“CBP”) to continue to suspend liquidation of all imports of subject merchandise entered or withdrawn from warehouse, for consumption on or after November 20, 2008, the date of publication of the *Preliminary Determination* in the **Federal Register**. We will instruct CBP to continue to require a cash deposit or the posting of a bond for all companies based on the estimated weighted-average dumping margins shown above, adjusted for the export subsidy rate determined in *CVD Citric Acid Final* (i.e., countervailable subsidy of 1.76 percent *ad valorem*). See *Citric Acid and Certain Citrate Salts From the People’s Republic of China: Final Affirmative Countervailing Duty Determination* (“*CVD Citric Acid Final*”), to be published concurrently with this notice. 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 Final*. The suspension of liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (“ITC”)

of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, within 45 days the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to the 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. Timely 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.

This determination and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: April 6, 2009.
Ronald K. Lorentzen,
Acting Assistant Secretary for Import Administration.

Appendix

General Issues

Comment 1: Selection of Surrogate Country

- Comment 2: Treatment of Energy in the Surrogate Financial Statements
- Comment 3: Treatment of Interest Expense and Income in Selling, General and Administrative Expenses
- Comment 4: Correct Calculation for the Inflator of the Indian Trucking Value
- Comment 5A: Surrogate Value for Hydrochloric Acid/Hydrogen Chloride
- Comment 5B: Surrogate Value for Calcium Carbonate
- Comment 5C: Surrogate Value for Coal
- Comment 5D: Surrogate Value for Water
- Comment 5E: Surrogate Value for Brokerage and Handling
- Comment 6: Indonesian Inflator
- Comment 7: Valuation of High Protein Corn By-Product
- Comment 8: Additional Expenses for Sales of Corn Feed By-Product Offset

Issues Specific to TTCA

- Comment 9: Date of Sale: Contract Date Versus Invoice Date
- Comment 10: Adjustment of TTCA’s Labor Factors
- Comment 11A: Correction of Clerical Error in Application of Billing Adjustment
- Comment 11B: Correction of Clerical Error in the Surrogate Value of Sodium Lignosulphonate
- Comment 12: Offset for Steam By-Product
- Comment 13: Use of TTCA’s Market-Economy Freight Costs
- Comment 14: Adjustment of the Surrogate Value for Hydrochloric Acid/Hydrogen Chloride
- Comment 15: Low-Protein Scrap Offset

Issues Specific to Yixing Union

- Comment 16: Yixing Union Corn Usage Rate
- Comment 17: Yixing Union Mycelium By-Product Offset
- Comment 18: Inflation of the Surrogate Value for Steam

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