

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 First Administrative Review of the Antidumping Duty Order; and Partial Rescission of Administrative Review

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

SUMMARY: In response to requests from interested parties, the Department of Commerce ("Department") is conducting the first 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 November 20, 2008, through April 30, 2010. The Department has preliminarily determined that during the period of review ("POR") respondents in this proceeding have made 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 10, 2011.

FOR FURTHER INFORMATION CONTACT: Krishna Hill or Lilit Asvatsatrian, 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) 482-6412, 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 30, 2010, the Department initiated an administrative review of the antidumping duty order on citric acid from the PRC.² On

October 7, 2010, the Department issued the respondent selection memorandum in which it selected RZBC Co., Ltd., RZCB Imp. & Exp. Co., Ltd., and RZBC (Juxian) Co., Ltd. (collectively "RZBC") and Yixing Union Biochemical Co., Ltd. ("Yixing Union") as respondents for individual review.³ Between October 12, 2010, and January 24, 2011, the Department sent the original antidumping questionnaire and supplemental questionnaires to RZBC and Yixing Union. RZBC and Yixing Union submitted timely questionnaire responses between November 10, 2010, and March 31, 2011.

On November 17, 2010, Petitioners,⁴ RZBC, and Yixing Union commented on surrogate country selection. On November 30, 2010, Yixing Union submitted rebuttal comments on surrogate country selection. On December 8, 2010, Petitioners, RZBC, and Yixing Union submitted surrogate value comments. On December 20, 2010, Petitioners submitted rebuttal comments on surrogate country and surrogate value selections.

On January 25, 2011, the Department published a notice in the **Federal Register** extending the time limit for the preliminary results of review by 60 days allowed under section 751(a)(3)(A) of the Act to April 1, 2011.⁵ On March 31, 2011, the Department further extended the preliminary results of review by 60 additional days to a maximum 120 days allowed under section 751(a)(3)(A) of the Act to May 31, 2011.⁶

Period of Review

The POR is November 20, 2008, through April 30, 2010.

names for the non-mandatory respondents were listed as follows: Laiwu Taihe Biochemistry Co., Ltd. ("Laiwu Taihe"); Anhui BBKA Biochemical Co., Ltd. and Anhui BBKA International Co., Ltd. (collectively, "BBKA"); Anhui Worldbest Bio-Pharmaceutical Co., Ltd., Shanghai Worldbest Group Company, Shanghai Worldbest Co., Ltd., Shanghai Worldbest Anui, Thai Worldbest Biochemical Co., Ltd., and Worldbest Biochemicals (Thailand) Co., Ltd. (collectively, "Worldbest"); and Pioneers Pharmavet S.L. ("Pioneers").

³ See the Department's memorandum regarding, "Administrative Review of the Antidumping Duty Order on Citric Acid and Citrate Salts from the People's Republic of China: Respondent Selection," dated October 7, 2010.

⁴ Archer Daniels Midland Company, Cargill, Incorporated and Tate & Lyle Americas LLC (collectively, "Petitioners").

⁵ See *Citric Acid and Certain Citrate Salts from the People's Republic of China: Notice of Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review*, 76 FR 4288 (January 25, 2011).

⁶ 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*, 76 FR 17835 (March 31, 2011).

Scope of the Order

The scope of this 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 this 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 this 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%, by weight, of the product. The scope of this order includes the hydrous and anhydrous forms of citric acid, the dihydrate and anhydrous forms of sodium citrate, otherwise known as citric acid sodium salt, and the monohydrate and monopotassium forms of potassium citrate. Sodium citrate also includes both trisodium citrate and monosodium citrate, which are also known as citric acid trisodium salt and citric acid monosodium salt, respectively. Citric acid and sodium citrate are classifiable under 2918.14.0000 and 2918.15.1000 of the Harmonized Tariff Schedule of the United States (HTSUS), respectively. Potassium citrate and crude calcium citrate are classifiable under 2918.15.5000 and 3824.90.9290 of the HTSUS, respectively. Blends that include citric acid, sodium citrate, and potassium citrate are classifiable under 3824.90.9290 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

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.

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 Requests for Revocation in Part*, 75 FR 37759 (June 30, 2010) ("*Initiation*"). In the *Initiation*, the firm

On September 24, 2010, Nutralliance, Inc., a U.S. importer of subject merchandise produced and exported by Laiwu Taihe, timely withdrew its request for an administrative review of Laiwu Taihe's exports to the United States. On October 15, 2010, Petitioners timely withdrew their review requests for BBKA, Worldbest, and Pioneers. Because no other parties requested a review of Laiwu Taihe's, BBKA's, Worldbest's or Pioneers' exports to the United States, the Department hereby rescinds the administrative review of citric acid with respect to these entities 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.⁷ 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. None of the parties to this proceeding has contested such treatment. Accordingly, the Department has calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

Surrogate Country

When the Department conducts an antidumping duty administrative review of imports from an NME country, section 773(c)(1) of the Act directs the Department to base NV, in most cases, on the NME producer's factors of production ("FOP"), valued in a surrogate market-economy ("ME") country or countries considered appropriate by the Department. In accordance with section 773(c)(4) of the Act, the Department will value FOPs using "to the extent possible, the prices or costs of the FOPs in one or more market-economy countries that are: (A) At a level of economic development comparable to that of the NME country, and (B) significant producers of comparable merchandise."

With respect to the Department's selection of surrogate country, both Petitioners and RZBC submitted comments arguing that Indonesia is the most appropriate surrogate country from which to derive surrogate factor values for the PRC because Indonesia: (a) Has

a per capita gross national income ("GNI") which is economically comparable to that of the PRC, (b) is also a significant producer of citric acid, and (c) provides reliable data to value respondents' factors of production.⁸ On November 17, 2010, Yixing Union identified both Indonesia and India to be appropriate for selection as the primary surrogate country.⁹ On November 30, 2010, Yixing Union submitted rebuttal comments regarding Petitioners' argument that India is inappropriate for surrogate country selection.¹⁰ In this submission, Yixing Union agreed that Indonesia is the most appropriate primary surrogate country, but also argued that India be considered a viable surrogate country in the instance that surrogate values from Indonesia are not available.

In the instant review, the Department has identified India, Indonesia, the Philippines, Ukraine, Thailand, and Peru as countries that are at a level of economic development comparable to the PRC.¹¹ The Department uses per capita GNI as the primary basis for determining economic comparability.¹² 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.

The Department has determined that it is appropriate to use Indonesia as a surrogate country, pursuant to section 773(c)(4) of the Act, based on the following: (1) It is at a similar 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.¹³ Accordingly, we have calculated NV using Indonesian prices when available and appropriate to value each respondent's FOPs.¹⁴ In certain instances where Indonesian SVs were not deemed to be the best available data, we have relied on Indian and Thai SVs in the alternative. Both India and Thailand are at a similar level of economic development to the PRC and are significant producers of comparable merchandise.

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.¹⁵

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.¹⁶ It is the

⁸ See RZBC's submission regarding, "Citric Acid and Certain Citrate Salts from the People's Republic of China: Surrogate Country Comments," dated November 17, 2010 ("RZBC's Surrogate Country Comments") and Petitioner's submission regarding, "Antidumping Duty Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China: Surrogate Country Selection," dated November 17, 2010 ("Petitioner's Surrogate Country Comments").

⁹ See Yixing Union's submission regarding, "Antidumping Duty Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China—Response of Yixing Union Biochemical Co., Ltd. to Request for Comments Regarding Surrogate Country Selection," dated November 17, 2010 ("Yixing Union's Surrogate Country Comments").

¹⁰ See Yixing Union's submission regarding, "Citric Acid and Certain Citrate Salts from the People's Republic of China (A-570-937)—Surrogate Value Rebuttal Letter of Yixing Union Biochemical Co., Ltd.," dated December 20, 2010.

¹¹ See the Department's Memorandum regarding "Citric Acid and Certain Citrate Salts from the People's Republic of China: Request for Comments on Surrogate Country Selection," dated October 12, 2010. The Department notes that these six countries are part of a non-exhaustive list of countries that are at a level of economic development comparable to the PRC.

¹² See the Department's Policy Bulletin No. 04.1, regarding, "Non-Market Economy Surrogate Country Selection Process," (March 1, 2004) ("Policy Bulletin 04.1"), available on the Department's Web site at <http://ia.ita.doc.gov/policy/bull04-1.html>.

¹³ See RZBC's Surrogate Country Comments, Yixing Union's Surrogate Country Comments, Petitioner's Surrogate Country Comments; see also the Department's Memorandum regarding "Preliminary Results of the Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China: Surrogate Value Memorandum," dated May 31, 2011 ("Surrogate Value Memorandum").

¹⁴ See Surrogate Value Memorandum; see also "Factor Valuations" section, below.

¹⁵ 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 surrogate value information pursuant to 19 CFR 351.301(c)(1). See *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809 (October 17, 2007), and accompanying Issues and Decision Memorandum at Comment 2.

¹⁶ See, e.g., *Certain Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From the People's Republic of China: Notice*

⁷ 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).

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 the *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*"). 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.¹⁷ For entities that were not assigned a separate rate in the previous segment of a proceeding, to demonstrate eligibility for such, the Department requires a separate-rate application.¹⁸ On August 25 and 31, 2010, RZBC and Yixing Union, respectively, each submitted separate rate certifications.

a. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies.¹⁹

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).

¹⁷ See *Initiation*.

¹⁸ *Id.*

¹⁹ See *Sparklers*, 56 FR at 20589.

The evidence provided by RZBC and Yixing Union 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.²⁰

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.²¹

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 and Yixing Union, we determine that the evidence on the record supports a preliminary finding of *de facto* absence of government control based on record statements and supporting documentation showing the following: (1) Each respondent sets its own export prices independent of the government and without the approval of a government authority; (2) each respondent retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; (3) each respondent has the authority to negotiate and sign

²⁰ See Letter from Yixing Union to the Department entitled, "Citric Acid and Certain Citrate Salts from the People's Republic of China (A-570-937)—Section A Questionnaire Response of Yixing Union Biochemical Co., Ltd.," dated November 10, 2010 ("Yixing Union's Section A Response"); see also Letter from RZBC to the Department entitled, "Citric Acid and Citrate Salt from the People's Republic of China: Section A Response" dated November 12, 2010 ("RZBC's Section A Response").

²¹ 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).

contracts and other agreements; and (4) each respondent has autonomy from the government regarding the selection of management.²² Additionally, each of these companies' questionnaire responses indicates that their pricing during the POR does not involve coordination among exporters.

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

Fair-Value Comparisons

To determine whether RZBC's and Yixing Union's sales of subject merchandise were made at less than NV, we compared the NV to individual export price ("EP") transactions in accordance with section 777A(d)(2) of the Act. See "Export Price" and "Normal Value" sections of this notice, below.

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. For each respondent, 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, domestic and market-economy brokerage and handling, and international freight. We valued 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

²² See Yixing Union's Section A Response and RZBC's Section A Response.

procedural requirements for trading a standard shipment of goods by ocean transport in India as reported in "Doing Business 2010: Indonesia" published by the World Bank.²³

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 the respondents 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 respondents for the POR. In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to find an appropriate surrogate value ("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.²⁴ 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.²⁵ 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 Indian and Indonesian sources in order to calculate SVs for RZBC's and Yixing Union'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 and Indian 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.²⁶ The record shows that data in the Indonesian Import Statistics, as well as those from the other Indonesian, Thai, and Indian sources, are contemporaneous with the POR, product-specific, and tax-exclusive.²⁷ 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 ("WPI") as published in the IMF's *International Financial Statistics*.²⁸

Mushrooms From the People's Republic of China, 66 FR 31204 (June 11, 2001), and accompanying Issues and Decision Memorandum at Comment 5.

²⁶ 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).

²⁷ See Surrogate Value Memorandum.

²⁸ 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) ("*Kitchen Racks Prelim*"), unchanged in *Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Determination of*

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.²⁹ 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.³⁰ 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.³¹ 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.³²

We valued truck freight expenses using a per-unit average rate calculated from data on the infobanc Web site: <http://www.infobanc.com/logistics/logtruck.htm>. The logistics section of this Web site contains inland freight truck rates between many large Indian cities.³³

We valued the surrogate value for inland water freight using price data for barge freight reported in a March 19,

Sales at Less Than Fair Value, 74 FR 36656 (July 24, 2009) ("*Kitchen Racks Final*").

²⁹ Omnibus Trade and Competitiveness Act of 1988, Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) at 590.

³⁰ 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.

³¹ See, e.g., *Kitchen Racks Prelim*, 74 FR at 9600, unchanged in *Kitchen Racks Final*.

³² See *id.*

³³ See Surrogate Value Memorandum.

²³ See Surrogate Value Memorandum.

²⁴ 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).

²⁵ 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*

2007 article published in *The Hindu Business Line*. The data is based on average inland transport costs and port handling charges. We inflated the inland water transportation rate by using the appropriate Indian WPI inflator.

On May 14, 2010, the Federal Circuit in *Dorbest Ltd. v. United States*, 604 F.3d 1363, 1372 (Fed. Cir. 2010), found that the regression-based method for calculating wage rates, as stipulated by 19 CFR 351.408(c)(3), uses data not permitted by the statutory requirements laid out in section 773 of the Act (*i.e.*, 19 U.S.C. 1677b(c)). The Department is continuing to evaluate options for determining labor values in light of the recent CAFC decision. However, for these preliminary results, we have calculated an hourly wage rate to use in valuing respondents' reported labor input by averaging industry-specific earnings and/or wages in countries that are economically comparable to the PRC and that are significant producers of comparable merchandise.

For the preliminary results of this administrative review, the Department is valuing labor using a simple-average, industry-specific wage rate using earnings or wage data reported under Chapter 5B by the International Labor Organization ("ILO"). To achieve an industry-specific labor value, we relied on industry-specific labor data from the countries we determined to be both economically comparable to the PRC and significant producers of comparable merchandise. A full description of the industry-specific wage rate calculation methodology is provided in the Surrogate Value Memorandum. The Department calculated a simple average industry-specific wage rate of \$2.01 for these preliminary results. Specifically, for this review, the Department has calculated the wage rate using a simple average of the data provided to the ILO under Sub-Classification 24 of the ISIC–Revision 3 standard by countries determined to be both economically comparable to the PRC and significant producers of comparable merchandise. The Department finds the two-digit description under ISIC–Revision 3 ("Manufacture of Chemicals and Chemical Products") to be the best available wage rate surrogate value on the record because it is specific and derived from industries that produce merchandise comparable to the subject merchandise. Consequently, we averaged the ILO industry-specific wage rate data or earnings data available from the following countries found to be economically comparable to the PRC and which are significant producers of comparable merchandise: Ecuador,

Egypt, Indonesia, Jordan, Peru, Philippines, Thailand, and Ukraine. For further information on the calculation of the wage rate, see Surrogate Value Memorandum.

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 and steam for both RZBC and Yixing Union) in the calculation of normal value for purposes of the final determination, in order to avoid double-counting energy costs that have necessarily been captured in the surrogate financial ratios.³⁴

To value factory overhead, selling, general, and administrative expenses, and profit, we used audited financial statements for the year ending December 2009 of PT Budi Acid Jaya TBK, a producer of comparable merchandise from Indonesia. The Department may consider other publicly available financial statements for the final results, as appropriate.

RZBC and Yixing Union reported that they have 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.

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 margins for the individually reviewed exporters are as follows:

Exporter	Margin
RZBC Co., Ltd./RZBC Imp. & Exp. Co., Ltd./RZBC (Juxian) Co., Ltd.	0.36 (<i>de minimis</i>).
Yixing Union Biochemical Co., Ltd.	66.75.

Disclosure and Public Comment

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of

³⁴ 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.

this notice in accordance with 19 CFR 351.224(b). Interested parties may submit written comments no later than 30 days after the date of publication of these preliminary results of review.³⁵ Rebuttals to written comments may be filed no later than five days after the written comments are filed.³⁶ Further, parties submitting written comments and rebuttal comments are requested to provide the Department with an additional copy of those comments on a CD.

Any interested party may request a hearing within 30 days of publication of this notice.³⁷ Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.³⁸

The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

The Department will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. For Laiwu Taihe and BBCA, which had previously established eligibility for a separate rate, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(2). The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. For assessment purposes, we calculated exporter/importer-specific assessment rates for merchandise subject to this review.³⁹ Where appropriate, we calculated an *ad valorem* rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total entered values associated

³⁵ See 19 CFR 351.309(c).

³⁶ See 19 CFR 351.309(d).

³⁷ See 19 CFR 351.310(c).

³⁸ See 19 CFR 351.310(d).

³⁹ See 19 CFR 351.212(b)(1).

with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting *ad valorem* rate against the entered customs values for the subject merchandise. Where appropriate, we calculated a per-unit rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total sales quantity associated with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting per-unit rate against the entered quantity of the subject merchandise. Where an importer (or customer)-specific assessment rate is *de minimis* (i.e., less than 0.50 percent), the Department will instruct CBP to assess that importer's (or customer's) entries of subject merchandise without regard to antidumping duties. We intend to instruct CBP to liquidate entries containing subject merchandise exported by the PRC-wide entity⁴⁰ at the PRC-wide rate we determine in the final results of this review. Where the weighted average *ad valorem* rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties. See 19 CFR 351.106(c)(2).

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 and Yixing Union the cash deposit rate will be their respective rates 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, including Pioneers and Worldbest, 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, 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 and 351.221(b)(4).

Dated: May 31, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011-14363 Filed 6-9-11; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RIN 0648-XA488]

Marine Mammals; File No. 16314

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Jennifer Lewis, Ph.D., Tropical Dolphin Research Foundation, Pembroke Pines, FL 33024 has applied in due form for a permit to conduct research on bottlenose dolphins (*Tursiops truncatus*).

DATES: Written, telefaxed, or e-mail comments must be received on or before July 11, 2011.

ADDRESSES: The application and related documents are available for review by selecting "Records Open for Public Comment" from the *Features* box on the Applications and Permits for Protected Species (APPS) home page, <https://apps.nmfs.noaa.gov>, and then selecting File No. 16314 from the list of available applications.

These documents are also available upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room

13705, Silver Spring, MD 20910; phone (301) 713-2289; fax (301) 713-0376; and Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, Florida 33701; phone (727) 824-5312; fax (727) 824-5309.

Written comments on this application should be submitted to the Chief, Permits, Conservation and Education Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713-0376, or by e-mail to NMFS.Pr1Comments@noaa.gov. Please include the File No. in the subject line of the e-mail comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits, Conservation and Education Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT:

Joselyd Garcia-Reyes or Kristy Beard, (301) 713-2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant requests a five-year permit to conduct photo-identification surveys and biopsy sampling. Research would occur in Whitewater Bay, Shark River, Ponce de Leon Bay and Florida Bay, which are found in Everglades National Park (ENP). Up to 3,020 bottlenose dolphins could be taken by level B harassment each year during photo-identification surveys. Additionally, up to 38 bottlenose dolphins from each location could be taken by level A harassment annually, to acquire 30 successful biopsy samples from each location over the life of the permit. Research would stop when the desired number of samples has been obtained. The purposes of the proposed research are to: (1) Examine spatiotemporal variation in trophic interactions (diets) of the dolphins, (2) elucidate patterns of transmission of a unique foraging behavior, mud ring feeding, and (3) compare trophic interactions and genetics of dolphins in ENP with existing samples from the Lower Florida Keys.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

⁴⁰ PRC-wide entity includes Pioneers and Worldbest, which did not previously establish eligibility for a separate rate.