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June 3, 2013

**MEMORANDUM TO:** Paul Piquado  
Assistant Secretary  
for Import Administration

**FROM:** Christian Marsh   
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

**SUBJECT:** Decision Memorandum for the Preliminary Results of the  
Countervailing Duty Administrative Review: Citric Acid and  
Certain Citrate Salts; 2011

### SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on citric acid and certain citrate salts from the People's Republic of China (PRC). The period of review (POR) is January 1, 2011, through December 31, 2011. The respondent is RZBC Co., Ltd. (RZBC Co.) and its cross-owned affiliates RZBC Group Shareholding Co., Ltd. (RZBC Group), RZBC Juxian Co., Ltd. (RZBC Juxian), and RZBC Imp. & Exp. Co., Ltd. (RZBC IE) (collectively, RZBC or the RZBC Companies). We preliminarily find that the RZBC Companies received countervailable subsidies during the POR.

If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), we will issue the final results no later than 120 days after issuance of these preliminary results.

### BACKGROUND

On May 29, 2009, the Department published a CVD order on citric acid and certain citrate salts (citric acid) from the PRC.<sup>1</sup> On May 1, 2012, we published a notice of "Opportunity to Request Administrative Review" of the order.<sup>2</sup>

On May 31, 2012, we received a request to conduct an administrative review from Archer Daniels Midland Company, Cargill, Incorporated, and Tate & Lyle Ingredients Americas LLC,

<sup>1</sup> See *Citric Acid and Certain Citrate Salts from the People's Republic of China: Notice of Countervailing Duty Order*, 74 FR 25705 (May 29, 2009) (CVD Order).

<sup>2</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 77 FR 25679 (May 1, 2012).



domestic producers of the subject merchandise and petitioners in the investigation (collectively, the Petitioners), to conduct an administrative review of the RZBC Companies and Yixing-Union Biochemical Co., Ltd. (Yixing-Union).<sup>3</sup> RZBC Companies also requested a review of themselves.<sup>4</sup> In accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of this administrative review on July 10, 2012, covering the RZBC Companies and Yixing-Union.<sup>5</sup>

On July 11, 2012, the Department issued the initial questionnaire to the Government of the People's Republic of China (GOC), the RZBC Companies, and Yixing-Union.<sup>6</sup> On July 13, 2012, Yixing-Union certified that it had no sales, shipments, or exports of subject merchandise to the United States during the POR. Because the results of the Department's customs data query indicated that there were no entries of subject merchandise to the United States by Yixing-Union during the POR and we did not receive any information from CBP contrary to Yixing-Union's claim, we published a notice of intent to rescind the administrative review of Yixing-Union on August 8, 2012.<sup>7</sup> No interested party submitted comments on the Department's preliminary determination to rescind Yixing-Union's review. On September 12, 2012, we published the notice of rescission of Yixing-Union's administrative review.<sup>8</sup>

On September 4, 2012, the GOC submitted its initial questionnaire response for all sections of the initial questionnaire except for the input supplier appendix for certain sulfuric acid producers, for which an extension of time was granted.<sup>9</sup> On September 6, 2012, the RZBC Companies submitted their responses to the initial questionnaire.<sup>10</sup> On September 14 and 17, 2012, Petitioners filed comments on the GOC's and the RZBC Companies' initial questionnaire responses. On September 18, 2012, the GOC submitted the response to the input supplier appendix for certain sulfuric acid producers, *i.e.*, section E(1) of the initial questionnaire response.<sup>11</sup> On September 26, 2012, Petitioners submitted new subsidies allegations. On October 18, 2013, Petitioners requested the Department conduct a verification of the GOC and RZBC Companies' questionnaire responses. The Department initiated a review based on the new subsidy allegations on January 25, 2013 and also issued new subsidy allegation questionnaires to the GOC and RZBC Companies. The Department issued supplemental questionnaires to GOC on January 30, April 23, and May 29, 2013, and to RZBC on January 22

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<sup>3</sup> See Letter from King & Spalding to the Department regarding "Request for Administrative Review," dated May 31, 2012. Petitioners requested an administrative review of producers and/or exporters RZBC Co., RZBC Juxian, and RZBC IE. As explained below in the section titled, "Subsidies Valuation Information," the Department found RZBC Group to be a cross-owned affiliate of RZBC Co., RZBC Juxian, and RZBC IE, and therefore subject to this administrative review. This public document and all other public documents and public versions generated in the course of this review by the Department and interested parties are available to the public through Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS), located in Room 7046 of the main Department building.

<sup>4</sup> See Letter from Barnes/Richardson to the Department regarding "Countervailing Duty Administrative Review Request" (May 14, 2012).

<sup>5</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 77 FR 40565, 40573 (July 10, 2012).

<sup>6</sup> See the Department's initial questionnaire (IQ) (July 11, 2012).

<sup>7</sup> See *Citric Acid and Certain Citrate Salts from the People's Republic of China: Intent to Rescind Countervailing Duty Administrative Review, in Part*, 77 FR 47370 (August 8, 2012).

<sup>8</sup> See *Citric Acid and Certain Citrate Salts from the People's Republic of China: Notice of Rescission of Countervailing Duty Administrative Review, in Part*, 77 FR 56188 (September 12, 2012).

<sup>9</sup> See GOC's initial questionnaire response (GOC IQR) (September 4, 2012).

<sup>10</sup> See RZBC Companies' initial questionnaire response (RZBC IQR) (September 6, 2012).

<sup>11</sup> See GOC's input producer appendix response (GOC input response) (September 18, 2012).

and April 23, with an addendum on April 29, 2013.<sup>12</sup> On March 1 and 8, and May 10, 2013, the RZBC Companies submitted their responses to the supplemental and new subsidy allegation questionnaires.<sup>13</sup> The GOC submitted its responses to the supplemental and new subsidy allegation questionnaires on March 1 and 8, and May 3 and 10.<sup>14</sup> On April 8, 2013, Petitioners submitted an un-creditworthiness allegation. On May 13, 2013, Petitioners submitted comments and rebuttal factual information, with additional rebuttal factual information submitted on May 14, 2013. On May 16, 2013, RZBC Companies submitted rebuttal factual information. On May 24, 2013, Petitioners submitted a rebuttal response to RZBC Companies' May 17, 2013, submission.

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

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<sup>12</sup> See the Department's first supplemental questionnaire (1SQ) to the GOC (January 30, 2013), 2<sup>nd</sup> supplemental questionnaire (2SQ) to the GOC (April 23, 2013), and 3<sup>rd</sup> supplemental questionnaire (3 SQ) to the GOC (May 29, 2013); and the Department's 1SQ to RZBC Companies (January 23, 2013) and 2SQ to RZBC Companies (April 23, 2013).

<sup>13</sup> See RZBC Companies' first supplemental questionnaire response (1SQR) (March 1 and 8, 2013); new subsidy allegation questionnaire response (NSAQR) (March 1 and March 8, 2013); and 2<sup>nd</sup> supplemental questionnaire response (2SQR) (May 10, 2013).

<sup>14</sup> See GOC's 1SQR (March 1 and 8, 2012); 2SQR (May 3 and 10, 2013). The GOC's response to 3SQ is currently due June 5, 2013, after the preliminary results.

## USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply “facts otherwise available” if necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information.

The Department’s practice when selecting an adverse rate from among the possible sources of information is to ensure that the result is sufficiently adverse “as to effectuate the statutory purposes of the adverse facts available (AFA) rule to induce respondents to provide the Department with complete and accurate information in a timely manner.”<sup>15</sup> The Department’s practice also ensures “that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”<sup>16</sup>

### GOC – Sulfuric Acid

In the July 11, 2012, initial questionnaire, we requested ownership information from the GOC about the companies that produced the sulfuric acid purchased by the RZBC Companies.<sup>17</sup> We notified the GOC that the Department generally treats producers that are majority owned by the government or a government entity as controlled by the government and, hence, as “authorities” within the meaning of section 771(5)(B) of the Act. However, for those majority government-owned companies that the GOC argues are not “authorities” and for each producer that is not majority owned by the government, we instructed the GOC to answer all questions in the “Information Regarding Input Producers in the PRC” Appendix (Input Producer Appendix).

The GOC responded that RZBC Companies purchased sulfuric acid from six producers. With regards to three producers, the GOC did not challenge the Department’s “authority” practice for enterprises that are majority owned by the government or a government entity. The GOC attempted to provide ownership information for the remaining three producers; however, the GOC failed to respond to section IV of the Input Producer Appendix regarding the presence of Chinese Communist Party (CCP) officials and organizations within those companies.<sup>18</sup> Instead, the GOC stated that the Department’s CCP questions are not relevant to the investigation of the less than adequate remuneration (LTAR) program and that, as a matter of PRC law, the government cannot interfere in the management and operation of the sulfuric acid producers.<sup>19</sup> The GOC stated that, in prior cases, it explained its view that the CCP, the People’s Congress, and the Chinese People’s Political Consultative Conference are not governmental

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<sup>15</sup> See *Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

<sup>16</sup> See Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, vol. 1 at 870 (1994).

<sup>17</sup> See Department’s IQ at section II page 5.

<sup>18</sup> See GOC’s input response at III-6.

<sup>19</sup> *Id.*

agencies.<sup>20</sup> The GOC also stated that “because these entities are not governmental agencies, the GOC cannot require them to provide the information requested by the Department.”<sup>21</sup> Furthermore, the GOC stated that “there is no governmental data system that can compile, maintain or provide data or information concerning the political attitudes and/or party affiliations of an individual businessman.”<sup>22</sup> As such, the GOC claimed that it was “beyond the capacity of the GOC to access the information requested by the Department.”<sup>23</sup>

On January 30, 2013, we issued a deficiency questionnaire in which we asked the GOC to provide a response to those questions in section IV of the Input Producer Appendix which it did not answer in the initial questionnaire response.<sup>24</sup> In its March 1, 2013, response with regards to two of the sulfuric acid producers, the GOC reiterated its initial response, stating “the GOC cannot interfere with any ordinary business operation and management of the suppliers listed herein, because it is prohibited to do so by law.”<sup>25</sup> With regards to the final sulfuric acid producer, the GOC did not provide a response to section IV of the Input Producer Appendix because it is majority-owned by a Russian company; therefore the GOC argued, it “cannot be a Chinese government authority.”<sup>26</sup>

Regarding the GOC’s objection to the Department’s questions about the role of CCP officials in the management and operations of the sulfuric acid producers, we have explained our understanding of the CCP’s involvement in the PRC’s economic and political structure in a past proceeding.<sup>27</sup> The Department has previously determined that “available information and record evidence indicates that the CCP meets the definition of the term ‘government’ for the limited purpose of applying the U.S. CVD law to China.”<sup>28</sup> Additionally, publicly available information indicates that Chinese law requires the establishment of CCP organizations “in all companies, whether state, private, domestic, or foreign-invested” and that such organizations may wield a controlling influence in the company’s affairs.<sup>29</sup> With regard to the GOC’s claim that Chinese law prohibits GOC officials from taking positions in private companies, we have previously

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<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at III-8.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> See Department’s 1SQ (January 30, 2013) at 2.

<sup>25</sup> See GOC’s 1SQR at 3.

<sup>26</sup> *Id.*

<sup>27</sup> See Memorandum to the File from Patricia M. Tran, “Additional Documents for the Preliminary Results,” dated June 3, 2013 (Additional Documents Memorandum), which includes Memorandum for Paul Piquado, Assistant Secretary for Import Administration, through Lynn Fischer Fox, Deputy Assistant Secretary for AD/CVD Policy and Negotiation, Christian Marsh, Deputy Assistant Secretary for AD/CVD Operations, and John D McInerney, Chief Counsel for Import Administration, from Shauna Biby, Christopher Cassel, Timothy Hruby, Office of Policy, Import Administration, “Section 129 Determination of the Countervailing Duty Investigation of Circular Welded Carbon Quality Steel Pipe; Light-Walled Rectangular Pipe and Tube; Laminated Woven Sacks; and Off-the-Road Tires from the People’s Republic of China: An Analysis of Public Bodies in the People’s Republic of China in Accordance with the WTO Appellate Body’s Findings in WTO DS379,” dated May 18, 2012 (Public Body Memorandum); and its attachment, Memorandum for Paul Piquado, Assistant Secretary for Import Administration, through Lynn Fischer Fox, Deputy Assistant Secretary for AD/CVD Policy and Negotiation, Christian Marsh, Deputy Assistant Secretary for AD/CVD Operations, and John D McInerney, Chief Counsel for Import Administration, from Shauna Biby, Christopher Cassel, Timothy Hruby, Office of Policy, Import Administration, “The relevance of the Chinese Communist Party for the limited purpose of determining whether particular enterprises should be considered to be ‘public bodies’ within the context of a countervailing duty investigation,” dated May 18, 2012 (CCP Memorandum).

<sup>28</sup> See *Id.* at CCP Memorandum at 33.

<sup>29</sup> *Id.* at Public Body Memorandum at 35-36 and sources cited therein.

found that this particular law does not pertain to CCP officials.<sup>30</sup> The GOC also claims that government and CCP officials are not eligible to hold positions in enterprises citing to “Executive Opinion of the Central Organization Department of Central Committee of CPC on Modeling and Trial Implementation of the Provisional Regulations of State Civil Servants in CCP Organs” (ZHONG FA (1993) No. 8)” and the “Civil Servant Law.”<sup>31</sup> The GOC’s argument, however, is contradicted by the Department’s finding in a past proceeding that CCP officials can, in fact, serve as owners, members of the board of directors, or senior managers of companies.<sup>32</sup>

Because the GOC did not respond to our requests for information on this issue, we have no basis upon which to reevaluate the Department’s prior factual findings on the role of the CCP. Thus, the Department finds, as it has in other PRC CVD proceedings, that the information requested regarding the role of CCP officials and CCP committees in the management and operations of the sulfuric acid producers, and in the management and operations of the producers’ owners, is necessary to our determination of whether the producer is an authority within the meaning of section 771(5)(B) of the Act.

Therefore, we preliminarily find that the GOC has withheld necessary information that was requested of it and, thus, that the Department must rely on “facts otherwise available” in conducting our preliminary analysis of the sulfuric acid producers.<sup>33</sup> Moreover, we preliminarily find that the GOC has failed to cooperate by not acting to the best of its ability to comply with our request for information. By stating that the requested information is not relevant, the GOC has placed itself in the position of the Department, and only the Department can determine what is relevant to this administrative review.<sup>34</sup> Furthermore, by stating that it is unable to obtain the information because in its view the CCP is not the government, the GOC is substantially non-responsive. The GOC would have the Department reach its determination on the role of the CCP with regard to the government and the input producer based solely on the conclusory statements

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<sup>30</sup> See *Certain Seamless Carbon and Alloy Steel Standard, Line, and Pressure Pipe from Circumstances Determination*, 75 FR 57444 (September 21, 2010), and the accompanying Issues and Decision Memorandum (Seamless Pipe Decision Memorandum) at 16.

<sup>31</sup> See GOC’s input response at III-5.

<sup>32</sup> See *Pre-Stressed Concrete Steel Wire Strand from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010) (“*PC Strand from the PRC*”) and accompanying IDM at Comment 8 (“{i}n the instant investigation, the information on the record indicates that certain company officials are members of the Communist Party and National Party Conference as well as members of certain town, municipal, and provincial level legislative bodies.”)

<sup>33</sup> See section 776(a)(2)(A) of the Act.

<sup>34</sup> See *Ansaldo Componenti, S.p.A. v. United States*, 628 F. Supp. 198, 205 (CIT 1986) (stating that “{i}t is Commerce, not the respondent, that determines what information is to be provided”). The Court in *Ansaldo* criticized the respondent for refusing to submit information which the respondent alone had determined was not needed, for failing to submit data which the respondent decided could not be a basis for the Department’s decision, and for claiming that submitting such information would be “an unreasonable and unnecessary burden on the company.” *Id.* See also *Essar Steel Ltd. v. United States*, 721 F. Supp. 2d 1285, 1298-99 (CIT 2010) (stating that “{r}egardless of whether Essar deemed the license information relevant, it nonetheless should have produced it {in} the event that Commerce reached a different conclusion” and that “Commerce, and not Essar, is charged with conducting administrative reviews and weighing all evidence in its calculation of a countervailing duty margin”); *NSK, Ltd. v. United States*, 919 F. Supp. 442, 447 (CIT 1996) (“NSK’s assertion that the information it submitted to Commerce provided a sufficient representation of NSK’s cost of manufacturing misses the point that ‘it is Commerce, not the respondent, that determines what information is to be provided for an administrative review.’”); *Nachi-Fujikoshi Corp. v. United States*, 890 F. Supp. 1106, 1111 (CIT 1995) (“Respondents have the burden of creating an adequate record to assist Commerce’s determinations.”).

of the GOC without any of the information that the Department considers necessary for its analysis. As this constitutes a failure to cooperate to the best of its ability, we find that an adverse inference is warranted in the application of facts available.<sup>35</sup> As AFA, we preliminarily find that the two sulfuric acid producers for which the GOC did not provide complete information is an “authority” within the meaning of section 771(5)(B) of the Act. With regards to the final sulfuric acid producer, majority-owned by a Russian company, the Department requires additional information and will address whether it is or is not a government “authority” in a post-preliminary analysis.

### GOC –Other Subsidies

The financial statements submitted by the RZBC Companies indicated that they received potentially countervailable subsidies in the form of grants. Consequently, we sought further information from the companies about these grants, and also asked the GOC to provide information about the programs under which the grants were provided.<sup>36</sup>

The Department normally relies on information from the government to assess program specificity; however, the GOC did not submit such information for every program investigated.<sup>37</sup> Where the RZBC Companies submitted information which showed the specificity of a program, we relied upon that information to make our preliminary finding. Where neither the RZBC Companies nor the GOC provided information that would allow us to determine the specificity of a program, we relied upon AFA to make our preliminary finding. For those particular programs, we preliminarily find that the GOC withheld necessary information that was requested of it and, thus, the Department must rely on facts available for these preliminary results.<sup>38</sup> Moreover, we preliminarily find that the GOC has failed to cooperate by not acting to the best of its ability to comply with our request for information. Consequently, an adverse inference is warranted in the application of facts available.<sup>39</sup>

Due to the GOC’s failure to provide the requested information about the programs under which the RZBC Companies received grants, we are applying an adverse inference that these grants are being provided to a specific enterprise or industry, or group of enterprises or industries.<sup>40</sup>

Our determinations that the producers supplying sulfuric acid to the RZBC Companies are authorities and that certain of the programs under which the RZBC Companies received the subsidies shown in its financial statements are specific are based on the unwillingness of the GOC to provide necessary information and constitute an adverse inference pursuant to section 776(b) of the Act.

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<sup>35</sup> See section 776(b) of the Act.

<sup>36</sup> See Department’s supplemental questionnaires issued to the GOC on January 30 and April 23, 2013, and supplemental questionnaires issued to the RZBC Companies on January 22 and April 23, 2013.

<sup>37</sup> The GOC provided legislation governing the following grant programs: Fund for Energy-Saving Technological Innovation; Special Fund for Pollution Control of Three Rivers, Three Lakes, and the Songhua River; Shandong Province Science and Technology Development Fund; Shandong Self-Innovation Subsidy; and Special Fund for Foreign Trade Public Service Platform. See GOC IQR at Exhibit 2 through 5 and March 8, 2013, ISQR at Exhibit 1.

<sup>38</sup> See section 776(a)(2)(A) of the Act.

<sup>39</sup> See section 776(b) of the Act.

<sup>40</sup> See section 771(5A) of the Act.

## **SUBSIDIES VALUATION INFORMATION**

### *Allocation Period*

The average useful life (AUL) period in this proceeding, as described in 19 CFR 351.524(d)(2), is 9.5 years according to the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System for assets used to manufacture the subject merchandise. Consistent with the Department's practice, we have rounded the 9.5 years up to 10 years for purposes of setting the AUL.<sup>41</sup>

### *Attribution of Subsidies*

The Department's regulations at 19 CFR 351.525(b)(6)(i) state that the Department will normally attribute a subsidy to the products produced by the corporation that received the subsidy. However, 19 CFR 351.525(b)(6)(ii)-(iv) direct the Department to attribute subsidies received by certain other companies to the combined sales of those companies if (1) cross-ownership exists between the companies, and (2) the cross-owned companies produce the subject merchandise, are a holding or parent company of the subject company, or produce an input that is primarily dedicated to the production of the downstream product. In the case of a transfer of a subsidy between cross-owned companies, 19 CFR 351.525(b)(6)(v) directs the Department to attribute the subsidy to the sales of the company that receives the transferred subsidy.

According to 19 CFR 351.525(b)(6)(vi), cross-ownership exists between two or more corporations where one corporation can use or direct the individual assets of the other corporation(s) in essentially the same ways it can use its own assets. This regulation states that this standard will normally be met where there is a majority voting interest between two corporations or through common ownership of two (or more) corporations.

The Court of International Trade (CIT) has upheld the Department's authority to attribute subsidies based on whether a company could use or direct the subsidy benefits of another company in essentially the same way it could use its own subsidy benefits.<sup>42</sup>

### *The RZBC Companies*

The RZBC Companies consist of the RZBC Group, RZBC Co., RZBC Juxian, and RZBC IE. All companies are domestically owned PRC companies. RZBC Co., RZBC Juxian, and RZBC IE are wholly owned by RZBC Group and, hence, are cross-owned within the meaning of 19 CFR 351.525(b)(6)(vi).<sup>43</sup> RZBC Co. and RZBC Juxian are producers of the subject merchandise; RZBC IE is the exporter of the subject merchandise; and RZBC Group is a headquarters company and does not produce any merchandise. Consequently, the subsidies received by these companies are being attributed according to the rules established in 19 CFR 351.525(b)(6)(ii), (c), and (b)(6)(iii), respectively.

In their initial questionnaire response, the RZBC Companies reported their ownership

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<sup>41</sup>See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Preliminary Results and Rescission, in Part, of Countervailing Duty Administrative Review*, 72 FR 43607, 43608 (August 6, 2007), unchanged in final, 73 FR 7708.

<sup>42</sup>See *Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

<sup>43</sup>See RZBC Companies' IQR at "RZBC Group" page III-16.

history and affiliations prior to the POR, but after December 11, 2001.<sup>44</sup> RZBC Co. reported that the company “Sisha” was a prior owner.<sup>45</sup> In the first administrative review of this order, the Department determined that Sisha Co., Ltd. (Sisha) was cross-owned with RZBC Co. and instructed RZBC Companies to file a response on behalf of Sisha.<sup>46</sup> The Department found that Sisha received a countervailable, allocable subsidy in 2003.<sup>47</sup>

Consistent with the *Citric Acid First Review*, we continue to find that Sisha was cross-owned with RZBC Co. (*see* 19 CFR 351.525(b)(6)(vi)) and have attributed the allocable benefit for Sisha’s grant to the RZBC Companies for the POR. For more information, *see* “Enterprise Development Fund from Zibo City Financial Bureau,” below.

Also, RZBC IE reported that it exports subject merchandise produced by other, unaffiliated companies, but that this merchandise was not exported to the United States during the POR.<sup>48</sup> Although any subsidies to the unaffiliated producers would normally be cumulated with those of the trading company that sold their merchandise pursuant to 19 CFR 351.525(c), the Department has, in some instances, limited the number of producers it examines where the merchandise was not exported to the United States during the POR or accounted for a very small share of respondent’s exports to the United States.<sup>49</sup> In this review, we have not issued CVD questionnaires to the unaffiliated producers of citric acid whose merchandise was exported by RZBC IE, because such merchandise was not exported to the United States during the POR. Also, we have removed the sales of these products from RZBC IE’s 2011 sales to derive the denominator for purposes of calculating countervailable subsidy rates for the RZBC Companies. This approach is consistent with the Department’s treatment of RZBC IE’s exports of subject merchandise produced by unaffiliated companies in *Citric Acid First Review*.<sup>50</sup>

### Sales Denominators

We preliminarily determine that multiple sales denominators are appropriate for use in the attribution of subsidies to the RZBC Companies. To attribute a subsidy received by RZBC Co., RZBC Juxian, or RZBC IE, we used as the denominator the total consolidated sales of all three companies, exclusive of sales among affiliated companies, for 2011. To attribute a subsidy received by RZBC Group, we used as the denominator the total consolidated sales of RZBC Group, RZBC Co., RZBC Juxian, and RZBC IE, exclusive of sales among affiliated companies, for 2011. Lastly, to attribute an export subsidy received by a company, we used as the denominator the 2011 export sales of RBZC IE, exclusive of sales of merchandise produced by

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<sup>44</sup> The PRC ascended and became a member of the World Trade Organization on December 11, 2001.

<sup>45</sup> *See* RZBC Companies’ IQR at “RZBC Co. Ltd.” page III-18.

<sup>46</sup> In the first administrative review, the Department also found that the company Shandong Province High-Tech Investment Co. Ltd. (HTI) was a prior owner of RZBC Co. and, thus, was cross-owned with the RZBC Companies. *See Citric Acid and Certain Citrate Salts From the People’s Republic of China: Final Results of Countervailing Duty Administrative Review*, 76 FR 77206 (December 12, 2011) (*Citric Acid First Review*) and accompanying Issues and Decision Memorandum (*Citric Acid First Review ID Memo*) at “Attribution of Subsidies - RZBC.” All subsidies received by HTI that the Department found to be countervailable were expensed. *See Citric Acid First Review ID Memo* at “Shandong Province Financial Special Fund for Supporting High and New Technology Industry Development Project.” *See Citric Acid First Review ID Memo* at “Attribution of Subsidies - RZBC.”

<sup>47</sup> *See Citric Acid First Review ID Memo* at “Enterprise Development Fund from Zibo City Financial Bureau.”

<sup>48</sup> *See* RZBC Companies’ IQR at “RZBC IE” page III-20 and 2SQR at Exhibit 4.

<sup>49</sup> *See, e.g., Certain Pasta from Italy: Final Results of the Fourth Countervailing Duty Administrative Review*, 66 FR 64214 (December 12, 2001), and accompanying Issues and Decision Memorandum at “Attribution.”

<sup>50</sup> *See Citric Acid First Review ID Memo* at “Attribution of Subsidies - RZBC.”

unaffiliated companies.

## **BENCHMARKS AND DISCOUNT RATES**

The Department is investigating loans received by the RZBC Companies from Chinese policy banks and state-owned commercial banks (SOCBs), as well as non-recurring, allocable subsidies (*see* 19 CFR 351.524(b)(1)). The derivation of the benchmark and discount rates used to value these subsidies is discussed below.

### **Short-Term RMB-Denominated Loans**

Section 771(5)(E)(ii) of the Act explains that the benefit for loans is the “difference between the amount the recipient of the loan pays on the loan and the amount the recipient would pay on a comparable commercial loan that the recipient could actually obtain on the market.” Normally, the Department uses comparable commercial loans reported by the company as a benchmark.<sup>51</sup> If the firm did not have any comparable commercial loans during the period, the Department’s regulations provide that we “may use a national average interest rate for comparable commercial loans.”<sup>52</sup> Section 771(5)(E)(ii) of the Act also indicates that the benchmark should be a market-based rate.

For the reasons first explained in *CFS from the PRC*,<sup>53</sup> loans provided by PRC banks reflect significant government intervention in the banking sector and do not reflect rates that would be found in a functioning market. Because of this, any loans received by respondents from private Chinese or foreign-owned banks would be unsuitable for use as benchmarks under 19 CFR 351.505(a)(2)(i). Similarly, we cannot use a national interest rate for commercial loans as envisaged by 19 CFR 351.505(a)(3)(ii). Therefore, because of the special difficulties inherent in using a PRC benchmark for loans, the Department is selecting an external market-based benchmark interest rate.<sup>54</sup>

We first developed in *CFS from the PRC*<sup>55</sup> and more recently updated in *Thermal Paper from the PRC*,<sup>56</sup> the methodology used to calculate the external benchmark. Under that methodology, we first determine which countries are similar to the PRC in terms of gross

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<sup>51</sup> See 19 CFR 351.505(a)(3)(i).

<sup>52</sup> See 19 CFR 351.505(a)(3)(ii).

<sup>53</sup> See *Coated Free Sheet Paper from the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 72 FR 60645 (October 25, 2007) (*CFS from the PRC*) and accompanying Issues and Decision Memorandum (CFS Decision Memorandum) at Comment 10; *see also* Memorandum to the File from Patricia Tran, International Trade Compliance Analyst, AD/CVD Operations, Office 8, regarding “Placement of Banking Memoranda on Record of the Instant Review” (June 3, 2013)(Banking Memoranda).

<sup>54</sup> The use of an external benchmark is consistent with the Department’s practice. For example, in *Softwood Lumber from Canada*, the Department used U.S. timber prices to measure the benefit for government-provided timber in Canada. See *Notice of Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Softwood Lumber Products From Canada*, 67 FR 15545 (April 2, 2002) (*Softwood Lumber from Canada*), and accompanying Issues and Decision Memorandum (Softwood Lumber Decision Memorandum) at “Analysis of Programs, Provincial Stumpage Programs Determined to Confer Subsidies, Benefit.”

<sup>55</sup> See CFS Decision Memorandum at Comment 10.

<sup>56</sup> See *Lightweight Thermal Paper From the People’s Republic of China: Final Affirmative Countervailing Duty Determination*, 73 FR 57323 (October 2, 2008) (*Thermal Paper from the PRC*), and accompanying Issues and Decision Memorandum (Thermal Paper Decision Memorandum) at 8-10.

national income, based on the World Bank’s classification of countries as: low income; lower-middle income; upper-middle income; and high income. As explained in *CFS from the PRC*, the pool of countries captures the broad inverse relationship between income and interest rates. For 2001 through 2009, the PRC fell in the lower-middle income category.<sup>57</sup> Beginning with 2010, however, the PRC is in the upper-middle income category.<sup>58</sup> Accordingly, as explained below, we are using the interest rates of lower-middle income countries to construct the benchmark and discount rates for 2001 – 2009, and the interest rates of upper-middle income countries to construct the benchmark and discount rates for 2010 and 2011. As explained in *CFS from the PRC*, by pooling countries in this manner, we capture the broad inverse relationship between income and interest rates.

After identifying the appropriate interest rates, the next step in constructing the benchmark is to incorporate an important factor in interest rate formation – the strength of governance as reflected in the quality of the countries’ institutions. The strength of governance has been built into the analysis by using a regression analysis that relates the interest rates to governance indicators.

In each year from 2001-2009, and 2011, the results of the regression-based analysis reflected the intended, common sense result: stronger institutions meant relatively lower real interest rates, while weaker institutions meant relatively higher real interest rates.<sup>59</sup> Therefore, we have continued to rely on the regression-based analysis used since *CFS from the PRC* to compute the benchmarks for the years from 2001-2009, and 2011. For 2010, however, the regression does not yield that outcome for the PRC’s income group.<sup>60</sup> This contrary result for a single year does not lead the Department to reject the strength of governance as a determinant of interest rates. For the 2010 benchmark, we are using an average of the interest rates of the upper-middle income countries.

Many of the countries in the World Bank’s upper-middle and lower-middle income categories reported lending and inflation rates to the International Monetary Fund (IMF), and they are included in that agency’s international financial statistics (IFS). With the exceptions noted below, we have used the interest and inflation rates reported in the IFS for the countries identified as “upper middle income” by the World Bank for 2010 and 2011, and “lower middle income” for 2001-2009. First, we did not include those economies that the Department considered to be non-market economies for antidumping purposes for any part of the years in question, for example: Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Turkmenistan. Second, the pool necessarily excludes any country that did not report both lending and inflation rates to IFS for those years. Third, we removed any country that reported a rate that was not a lending rate or that based its lending rate on foreign-currency denominated instruments.<sup>61</sup> Finally, for each year the Department calculated an inflation-adjusted short-term benchmark rate,

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<sup>57</sup> See World Bank Country Classification, <http://econ.worldbank.org/>; see also Memorandum to the File from Patricia Tran, International Trade Compliance Analyst, Antidumping and Countervailing Duty Operations 8, regarding “Interest Rate Benchmark Memorandum (2001 – 2011)” (Interest Rate Benchmark Memorandum) (June 3, 2013).

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*, and Additional Documents Memorandum at Attachment I for Federal Reserve Consultation Memorandum.

<sup>60</sup> See Interest Rate Benchmark Memorandum.

<sup>61</sup> For example, in certain years Jordan reported a deposit rate, not a lending rate, and Ecuador and Timor L’Este reported dollar-denominated rates; therefore, such rates have been excluded.

we have also excluded any countries with aberrational or negative real interest rates for the year in question.<sup>62</sup>

The resulting inflation-adjusted benchmark lending rates are included in RZBC Companies' preliminary calculations memoranda. Because these rates are net of inflation, we adjusted the benchmark to include an inflation component.

### Long-Term RMB-Denominated Loans

The lending rates reported in the IFS represent short- and medium-term lending, and there are not sufficient publicly available long-term interest rate data upon which to base a robust benchmark for long-term loans. To address this problem, the Department has developed an adjustment to the short- and medium-term rates to convert them to long-term rates using Bloomberg U.S. corporate BB-rated bond rates.<sup>63</sup>

In *Citric Acid Investigation*, this methodology was revised by switching from a long-term mark-up based on the ratio of the rates of BB-rated bonds to applying a spread which is calculated as the difference between the two-year BB bond rate and the n-year BB bond rate, where n equals or approximates the number of years of the term of the loan in question.<sup>64</sup> Finally, because these long-term rates are net of inflation as noted above, we adjusted the benchmark to include an inflation component.

### Foreign Currency-Denominated Loans

To calculate benchmark interest rates for foreign currency-denominated loans, the Department is again following the methodology developed over a number of successive PRC investigations.<sup>65</sup> For US dollar short-term loans, the Department used as a benchmark the one-year dollar London Interbank Offering Rate (LIBOR), plus the average spread between LIBOR and the one-year corporate bond rates for companies with a BB rating. Likewise, for any loans denominated in other foreign currencies, we used as a benchmark the one-year LIBOR for the given currency plus the average spread between the LIBOR rate and the one-year corporate bond rate for companies with a BB rating.

For any long-term foreign currency-denominated loans, the Department added the applicable short-term LIBOR rate to a spread which is calculated as the difference between the

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<sup>62</sup> For example, we excluded Brazil from the 2010 and 2011 benchmarks because the country's real interest rate was 34.95 percent and 37.25 percent, respectively. See Interest Rate Benchmark Memorandum.

<sup>63</sup> See, e.g., *Light-Walled Rectangular Pipe and Tube From People's Republic of China: Final Affirmative Countervailing Duty Investigation Determination*, 73 FR 35642 (June 24, 2008) (*Rectangular Pipe from the PRC*), and accompanying Issues and Decision Memorandum (Rectangular Pipe Decision Memorandum) at 8.

<sup>64</sup> See *Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 16836 (April 13, 2009) (*Citric Acid Investigation*), and accompanying Issues and Decision Memorandum (Citric Acid Investigation ID Memo) at Comment 14.

<sup>65</sup> See *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Critical Circumstances Determination*, 77 FR 63788 (October 17, 2012), and the accompanying Issues and Decision Memorandum at "Loan Benchmarks and Discount Rates for Allocating Non-Recurring Subsidies," and also *Utility Scale Wind Towers From the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 77 FR 75978 (December 26, 2012), and the accompanying Issues and Decision Memorandum at "Benchmark and Discount Rates."

one-year BB bond rate and the n-year BB bond rate, where “n” equals or approximates the number of years of the term of the loan in question.

### Discount Rate Benchmarks

Consistent with 19 CFR 351.524(d)(3)(i)(A), we have used, as our discount rate, the long-term interest rate calculated according to the methodology described above for the year in which the government provided non-recurring subsidies.

The resulting interest rate benchmarks that we used in the preliminary calculations are provided in the Preliminary Results Interest Rate Benchmark Memorandum.

### Creditworthiness

The examination of creditworthiness is an attempt to determine if the company in question could obtain long-term financing from conventional commercial sources. According to 19 CFR 351.505(a)(4)(i), the Department will generally consider a firm to be uncreditworthy if, based on information available at the time of the government-provided loan, the firm could not have obtained long-term loans from conventional commercial sources.

In making this determination, according to 19 CFR 351.505(a)(4)(i)(A)-(D), the Department may examine, *inter alia*, the following four types of information: 1) receipt by the firm of comparable commercial long-term loans; 2) present and past indicators of the firm’s financial health; 3) present and past indicators of the firm’s ability to meet its costs and fixed financial obligations with its cash flow; and 4) evidence of the firm’s future financial position. Under 19 CFR 351.505(a)(4)(i)(A), the Department looks to whether the company has received commercial long-term loans in assessing the company’s creditworthiness. According to 19 CFR 351.505(a)(4)(ii), for companies not owned by the government, the Department normally considers a company’s receipt of a long-term loan from a commercial source to be dispositive of its creditworthiness. However, if the firm is government-owned, the existence of commercial borrowings is not dispositive of the firm’s creditworthiness. This is because, in the case of a government-owned firm, a bank is likely to consider that the government will repay the loan in the event of a default.<sup>66</sup>

As noted above in the “Background” section, Petitioners filed an allegation that RZBC I&E was uncreditworthy in 2011. We intend to analyze this allegation following the issuance of these preliminary results and will provide the parties with an opportunity to comment with our finding.

## **ANALYSIS OF PROGRAMS**

### **I. Programs Preliminarily Determined To Be Countervailable**

#### **A. Shandong Province Policy Loans Program**

In the underlying investigation, *Citric Acid First Review*, and *Citric Acid Second Review*, the Department found that the *Shandong Province Development Plan of Chemical Industry during “Tenth Five-Year Plan” Period* identifies objectives and goals for the development of the

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<sup>66</sup> See *Countervailing Duties; Final Rule*, 63 FR 65348, 65367 (November 25, 1998).

citric acid industry and calls for lending to support these objectives and goals.<sup>67</sup> Moreover, loan documents, reviewed by the Department in the first administrative review, stated that because the food-use citric acid industry “has characteristics of capital and technology concentration and belongs to high and new technology ... the State always takes positive policy to encourage its development.”<sup>68</sup> On the record of the instant review, the GOC reported that “while RZBC has reported receiving benefits under this program, the GOC submits that this program was terminated with the conclusion of the *Shandong Eleventh Five-Year Petro-Chemical Plan* on December 31, 2010. The current 12<sup>th</sup> five year plan, in effect during the POR, does not ‘call for lending to support’ the development of the citric acid industry.”<sup>69</sup> In *Citric Acid Second Review*, we found loans received by the companies in 2010 to be countervailable<sup>70</sup>; therefore, we continue to countervail loans received in 2010 with outstanding interest payments in 2011.

Contrary to the GOC’s argument, pursuant to *Shandong Province Planning for Development of the Chemical Industries during the Twelfth Five-Year Plan (12<sup>th</sup> Five-Year Plan)*, citric acid is listed as a biochemical categorized under “traditional fine chemicals.”<sup>71</sup> The *12<sup>th</sup> Five-Year Plan* details under its “supporting measures” that it will “increase the financial resources of high-paying technologies and advanced applicable technologies to transform traditional materials industry efforts to improve its technology and the value of content.” We preliminarily find that the loans are *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act because of the objectives and goals of the *12<sup>th</sup> Five-Year Plan*, in conjunction with the Government of Shandong’s past policies to develop the citric acid industry.

Therefore, consistent with the underlying investigation, *Citric Acid First Review*, and *Citric Acid Second Review*, we preliminarily find that Shandong Province policy loans from state-owned commercial banks constitute financial contributions from “authorities” within the meaning of sections 771(5)(B) and 771(5)(D)(i) of the Act. Further, pursuant to section 771(5)(E)(ii) of the Act, such financing provides a benefit equal to the difference between what the recipients paid on the loans and the amount they would have paid on comparable commercial loans. RZBC Co., RZBC Juxian, and RZBC IE reported that they had loans outstanding during the POR, which were provided by state-owned commercial banks. To calculate the benefit under this program, we compared the amount of interest each company paid on their outstanding loans to the amount of interest they would have paid on comparable commercial loans.<sup>72</sup> In conducting this comparison, we used the interest rates described in the “Benchmarks and Discount Rates” section above. We have attributed benefits under this program to the total consolidated sales of RZBC Co., RZBC Juxian, and RZBC IE (exclusive of inter-company sales), as discussed in the “Attribution of Subsidies” section above. On this basis, we preliminarily find that the RZBC Companies received a countervailable subsidy of 0.60 percent

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<sup>67</sup> See Citric Acid Investigation ID Memo at “Policy Lending;” Citric Acid First Review ID Memo at “Shandong Province Policy Loans Program;” and *Citric Acid and Certain Citrate Salts From the People’s Republic of China: Final Results of Countervailing Duty Administrative Review: 2010*, 77 FR 72323 (December 5, 2012) (*Citric Acid Second Review*), and accompanying Issue and Decision Memorandum (Citric Acid Second Review ID Memo) at Comment 3.

<sup>68</sup> See *Citric Acid and Certain Citrate Salts from the People’s Republic of China: Preliminary Results of Countervailing Duty Administrative Review*, 76 FR 33219, 33228 (June 8, 2011) (*Citric Acid First Review Prelim*), unchanged in the final results.

<sup>69</sup> See GOC’s IQR at 2-3.

<sup>70</sup> See Citric Acid Second Review ID Memo at Comment 3.

<sup>71</sup> See GOC’s IQR at page 19 of Exhibit 9.

<sup>72</sup> See 19 CFR 351.505(a).

*ad valorem*.

B. Export Seller's Credit for High- and New-Technology Products

RZBC IE also reported having outstanding loans from the Export-Import Bank of China (EXIM) during the POR, which were provided under this program. In the underlying investigation, *Citric Acid First Review*, and *Citric Acid Second Review* the Department found that loans under this program conferred a countervailable subsidy.<sup>73</sup>

On the record of the instant review, the GOC reported that there were no changes to the program during the POR.<sup>74</sup> Therefore, consistent with the *Citric Acid Investigation*, *Citric Acid First Review*, and *Citric Acid Second Review* we preliminarily find that the loans provided by the GOC under this program constitute financial contributions under sections 771(5)(B)(i) and 771(5)(D)(i) of the Act. The loans also provide a benefit under 771(5)(E)(ii) of the Act in the amount of the difference between the amounts the recipient paid and would have paid on comparable commercial loans. Finally, the receipt of loans under this program is tied to actual or anticipated exportation or export earnings and, therefore, this program is specific pursuant to sections 771(5A)(A)-(B) of the Act.

To calculate the benefit under this program, we compared the amount of interest RZBC IE paid on the outstanding loans to the amount of interest the company would have paid on comparable commercial loans.<sup>75</sup> In conducting this comparison, we used the interest rates described in the “Benchmarks and Discount Rates” section above. We divided the total benefit amount by the RZBC Companies’ export sales during the POR. On this basis, we preliminarily find that the RZBC Companies received a countervailable subsidy of 1.10 percent *ad valorem*.

C. Reduced Income Tax Rate for High or New Technology Enterprises

In the *Citric Acid First Review* and *Citric Acid Second Review*, the Department found this program to be countervailable.<sup>76</sup> As discussed in the *Citric Acid First Review Prelim*, Article 28.2 of the Enterprise Income Tax Law (EITL) authorizes a reduced income tax rate of 15 percent for high- and new-technology enterprises (HNTEs).<sup>77</sup> The criteria and procedures for identifying eligible HNTEs are provided in the *Measures on Recognition of High and New Technology Enterprises* (GUOKEFAHUO {2008} No. 172) (*Measures on Recognition of HNTEs*) and the *Guidance on Administration of Recognizing High and New Technology Enterprises* (GUOKEFA HUO {2008} No.362).<sup>78</sup> Article 8 of the *Measures on Recognition of HNTEs* provides that the science and technology administrative departments of each province, autonomous region, and municipality directly under the central government or cities under separate state planning shall collaborate with the finance and taxation departments at the same level to recognize HNTEs in their respective jurisdictions.<sup>79</sup>

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<sup>73</sup> See *Citric Acid Investigation ID Memo* at “Policy Lending;” and *Citric Acid First Review ID Memo* and *Citric Acid Second Review ID Memo* at “Export Seller’s Credit for High- and New-Technology Products.”

<sup>74</sup> See GOC’s IQR at 3.

<sup>75</sup> See 19 CFR 351.505(a).

<sup>76</sup> See *Citric Acid First Review ID Memo* and *Citric Acid Second Review ID Memo* at “Reduced Income Tax Rate for High or New Technology Enterprises.”

<sup>77</sup> See *Citric Acid First Review Prelim*, 76 FR at 33229-30.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

The annex of the *Measures on Recognition of HNTEs* lists eight high- and new-technology areas selected for the State’s “primary support”: 1) Electronics and Information Technology; 2) Biology and New Medicine Technology; 3) Aerospace Industry; 4) New Materials Technology; 5) High-tech Service Industry; 6) New Energy and Energy-Saving Technology; 7) Resources and Environmental Technology; and 8) High-tech Transformation of Traditional Industries.<sup>80</sup>

On the record of the instant review, the GOC reported that there were no changes to this program during the POR.<sup>81</sup> RZBC Co. and RZBC Juxian reported that they received tax savings under this program on their 2010 income tax returns filed during the POR.<sup>82</sup>

Consistent with the *Citric Acid First Review* and *Citric Acid Second Review*, we preliminarily find that the reduced income tax rate paid by RZBC Co. and RZBC Juxian is a financial contribution in the form of revenue foregone by the GOC, and provides a benefit to the recipient in the amount of the tax savings.<sup>83</sup> We also preliminarily find, consistent with the *Citric Acid First Review* and *Citric Acid Second Review*, that the reduction afforded by this program is limited as a matter of law to certain new and high technology companies selected by the government pursuant to legal guidelines specified in *Measures on Recognition of HNTEs* and, hence, is specific under section 771(5A)(D)(i) of the Act. Both the number of targeted industries (eight) and the narrowness of the identified project areas under those industries support a finding that the legislation expressly limits access to the program to a specific group of enterprises or industries.

To calculate the benefit, we compared the income tax rate that RZBC Co. and RZBC Juxian would have paid in the absence of the program (25 percent) to the income tax rate that the companies actually paid.<sup>84</sup> We treated the income tax savings realized by RZBC Co. and RZBC Juxian as a recurring benefit, consistent with 19 CFR 351.524(c)(1) and divided the company’s tax savings received during the POR by the consolidated sales (excluding inter-company sales) for RZBC Co., RZBC Juxian, and RZBC IE for the POR, pursuant to 19 CFR 351.525(b)(6)(iii) and 19 CFR 351.525(c). On this basis, we preliminarily find that the RZBC Companies received a countervailable subsidy of 1.43 percent *ad valorem*.

#### D. Income Tax Credits on Purchases of Domestically Produced Equipment

In the underlying investigation, *Citric Acid First Review*, and *Citric Acid Second Review* the Department found that this program provided countervailable subsidies.<sup>85</sup>

As discussed in the *Citric Acid First Review Prelim*, according to the *Provisional Measures on Enterprise Income Tax Credit for Investment in Domestically Produced Equipment for Technology Renovation {Projects}* (CAI SHU ZI {1999} No. 290), a domestically invested company may claim tax credits on the purchase of domestic equipment if the project is

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<sup>80</sup> *Id.*

<sup>81</sup> See GOC’s IQR at 4.

<sup>82</sup> See RZBC Companies’ IQR at “RZBC Co.” at pages III-50 through III-52 and Exhibit 5 and 22; and at “RZBC Juxian” at pages III-72 through III-74 and Exhibit 4 and 27.

<sup>83</sup> See section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1).

<sup>84</sup> See RZBC Companies’ IQR at “RZBC Co.” at Exhibit 5 and at “RZBC Juxian” at Exhibit 4.

<sup>85</sup> See Citric Acid Investigation ID Memo at “Income Tax Credits on Purchases of Domestically Produced Equipment;” and Citric Acid First Review ID Memo and Citric Acid Second Review ID Memo at “Income Tax Credits on Purchases of Domestically Produced Equipment.”

compatible with the industrial policies of the GOC.<sup>86</sup> Specifically, a tax credit up to 40 percent of the purchase price of the domestic equipment may apply to the incremental increase in tax liability from the previous year.<sup>87</sup>

On the record of the instant review, the GOC reported that there were no changes to this program during the POR.<sup>88</sup> RZBC Co. and RZBC Juxian reported that they received tax savings under this program on their 2010 income tax returns filed during the POR.<sup>89</sup>

Consistent with the prior segments of this proceeding and prior CVD determinations,<sup>90</sup> we preliminarily find that income tax credits for the purchase of domestically produced equipment are countervailable subsidies. The tax credits are a financial contribution in the form of revenue foregone by the government and provide a benefit to the recipients in the amount of the tax savings.<sup>91</sup> We further preliminarily find that these tax credits are contingent upon use of domestic over imported goods and, hence, are specific under section 771(5A)(C) of the Act.

We treated the income tax savings enjoyed by RZBC Co. and RZBC Juxian as a recurring benefit, consistent with 19 CFR 351.524(c)(1), and divided the companies' tax savings by the consolidated sales (excluding inter-company sales) for RZBC Co., RZBC Juxian, and RZBC IE for the POR, pursuant to 19 CFR 351.525(b)(6)(iii) and 19 CFR 351.525(c). On this basis, we preliminarily find that the RZBC Companies received a countervailable subsidy of 0.68 percent *ad valorem*.

#### E. Provision of Sulfuric Acid for LTAR

The Department is examining the provision of sulfuric acid to the RZBC Companies. In the *Citric Acid First Review* and *Citric Acid Second Review*, the Department found that this program provides countervailable subsidies.<sup>92</sup>

In its September 4, 2012, IQR the GOC did not report any changes to the operation of the program during the POR and did not answer the questions in Standard Questions Appendix.<sup>93</sup> As such, the Department continues to find that this program is specific, within the meaning of section 771(5A)(D)(iii)(I) of the Act.

The GOC reported in its September 18, 2012, input response that RZBC Companies purchased sulfuric acid from six producers, of which, three are majority-owned by the GOC during the POR. For the three sulfuric acid producers that are majority-owned by the GOC, we preliminarily find them to be "authorities" within the meaning of section 771(5)(B) of the Act. Also, as discussed under "Use of Facts Otherwise Available and Adverse Inferences," above, we are relying on AFA to determine that two of the remaining sulfuric acid producers from whom the RZBC Companies purchased sulfuric acid, are "authorities" within the meaning of section

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<sup>86</sup> See *Citric Acid First Review Prelim*, 76 FR 33230.

<sup>87</sup> *Id.*

<sup>88</sup> See GOC's IQR at 4.

<sup>89</sup> See RZBC Companies' IQR at "RZBC Co." at pages III-53 through III-55 and Exhibit 5 and 23; and "RZBC Juxian" at pages III-75 through 77 and Exhibit 4 and 28.

<sup>90</sup> See, e.g., *Certain Oil Country Tubular Goods from the People's Republic of China: Final Affirmative Countervailing Duty Determination, Final Negative Critical Circumstances Determination*, 74 FR 64045 (December 7, 2009) (*OCTG from the PRC*), and accompanying Issues and Decision Memorandum (*OCTG Decision Memorandum*) at 18.

<sup>91</sup> See section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1).

<sup>92</sup> See *Citric Acid First Review ID Memo* and *Citric Acid Second Review ID Memo* at "Provision of Sulfuric Acid for LTAR."

<sup>93</sup> See GOC's IQR at 24 - 25.

771(5)(B) of the Act. Therefore, for five of the sulfuric acid producers, we find that the RZBC Companies received a financial contribution in the form of the provision of a good.<sup>94</sup> With regards to the sixth sulfuric acid producer that is majority-owned by a Russian company, we require additional information from the GOC to determine whether it is or is not an “authority.”<sup>95</sup> Therefore, we have excluded RZBC Companies’ purchases from the sixth producer from the calculation and will analyze this producer in the post-preliminary analysis.

In the *Citric Acid First Review* and *Citric Acid Second Review*, the Department found that actual transaction prices for sulfuric acid in China are significantly distorted by the government’s involvement in the market. As such, we determined that domestic prices in the PRC cannot serve as viable, tier one benchmark prices. For the same reasons, we determined that import prices into the PRC cannot serve as a benchmark.<sup>96</sup> No new evidence has been presented in this review that would call into question that finding. Accordingly, to determine whether the provision of sulfuric acid conferred a benefit within the meaning of section 771(5)(E)(iv) of the Act, consistent with the *Citric Acid First Review*, we applied a tier two benchmark, *i.e.*, world market prices available to purchasers in the PRC (*see* 19 CFR 351.511(a)(2)(ii)).

Petitioners placed on the record export values for sulfuric acid from Belgium, Canada, Chile, Czech Republic, Egypt, France, Germany, Greece, India, Italy, Malaysia, Netherlands, Peru, Poland, South Africa, Sweden, Switzerland, Thailand, Ukraine, United States, and Uruguay for the year 2011, taken from trade statistics from Global Trade Atlas.<sup>97</sup> RZBC Companies submitted export values for sulfuric acid from various countries sourced from Global Trade Atlas for the year 2011;<sup>98</sup> however these prices contained import prices into the PRC. For the same reasons stated in the Department’s tier one discussion, we determine that import prices into the PRC cannot serve as a benchmark.

The average of the export prices provided by parties represents an average of commercially available world market prices for sulfuric acid that would be available to purchasers in the PRC. Also, 19 CFR 351.511(a)(2)(ii) states that where there is more than one commercially available world market price, the Department will average the prices to the extent practicable. Therefore, we have averaged the prices to calculate a single benchmark by month.

Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under tier two, the Department will adjust the benchmark price to reflect the price that a firm actually paid or would pay if it imported the product, including delivery charges and import duties. Regarding delivery charges, we averaged the international freight rates from Los Angeles, Vancouver, Santos, Buenos Aires, Rotterdam, St. Petersburg, Durban, Cape Town, Sydney, and Auckland to Shanghai, submitted by Petitioners.<sup>99</sup> RZBC Companies also submitted international freight rates from the U.S., Canada, Europe, India, Japan, Philippines, and South Korea to the PRC which we included in the average.<sup>100</sup> We also added inland freight in the PRC

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<sup>94</sup> See section 771(5)(D)(iii) of the Act.

<sup>95</sup> See the Department’s 3SQ (May 29, 2013).

<sup>96</sup> See *Citric Acid First Review* ID Memo and *Citric Acid Second Review* ID Memo at “Provision of Sulfuric Acid for LTAR.”

<sup>97</sup> See Petitioners’ Submission of Factual Information (November 20, 2012) (Petitioners’ Factual Information) at Exhibit 20.

<sup>98</sup> See RZBC Companies’ Submission of Factual Information (November 19, 2013) (RZBC Companies’ Factual Information) at Exhibit 2-A.

<sup>99</sup> See Petitioners’ Factual Information at Exhibit 5.

<sup>100</sup> See RZBC Companies’ Factual Information at Exhibit 2-D.

based on the RZBC Companies' sulfuric acid purchase information,<sup>101</sup> import duties as reported by the GOC, and the VAT applicable to imports of sulfuric acid into the PRC.<sup>102</sup> Both RZBC Co. and RZBC Juxian reported the prices that they paid for sulfuric acid inclusive of inland freight and VAT.

To derive the benchmark, we did not include marine insurance. In prior CVD investigations involving the PRC, the Department has found that while the PRC customs authorities impute an insurance cost on certain imports for purposes of levying duties and compiling statistical data, there is no evidence to suggest that PRC customs authorities require importers to pay insurance charges.<sup>103</sup>

Comparing the adjusted benchmark prices to the prices paid by RZBC Co. and RZBC Juxian for sulfuric acid, we preliminarily find that the GOC provided sulfuric acid for less than adequate remuneration, and that a benefit exists in the amount of the difference between the benchmark and what the respondents paid.<sup>104</sup> To calculate the benefit, we calculated the difference between the delivered world market price and the price that the companies paid for sulfuric acid, including delivery charges. Next, we divided the sum of the price differentials by the total consolidated sales of RZBC Co., RZBC Juxian, and RZBC IE (exclusive of inter-company sales). On this basis, we preliminarily determine that the RZBC Companies received a countervailable subsidy of 4.22 percent *ad valorem* in 2011.

#### F. Provision of Steam Coal for LTAR

The Department is examining whether the RZBC Companies purchase steam coal for LTAR during the POR. In the *Citric Acid Second Review*, the Department found that this program provides countervailable subsidies.<sup>105</sup>

In the July 11, 2012, initial questionnaire issued to the GOC in this review, we informed the GOC that the Department would not reevaluate the countervailability of this program. However, if there were any changes to the operation of the program during the POR, then the GOC was instructed to explain the changes and answer all relevant questions in the Standard Questions Appendix.<sup>106</sup> In its September 4, 2012, IQR the GOC did not report any changes to the operation of the program during the POR and did not answer the questions in Standard Questions Appendix.<sup>107</sup> As such, the Department continues to find that this program is specific, within the meaning of section 771(5A)(D)(iii)(I) of the Act.

On the record of the instant review, the GOC reported that the RZBC Companies purchased steam coal from state-owned enterprises during the POR.<sup>108</sup> Therefore, we preliminarily determine that the RZBC Companies received a financial contribution from government authorities in the form of the provision of a good, pursuant to section 771(5)(D)(iii) of the Act.

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<sup>101</sup> See RZBC Companies' IQR at "RZBC Co." at Exhibit 11 and "RZBC Juxian" at Exhibit 10.

<sup>102</sup> For import duties and VAT, see GOC's 1SQR (March 1, 2013) at 11.

<sup>103</sup> See, e.g., *Pre-Stressed Concrete Steel Wire Strand from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 75 FR 28557 (May 21, 2010) (*PC Strand from the PRC*), and accompanying Issues and Decision Memorandum (PC Strand Decision Memorandum) at Comment 13.

<sup>104</sup> See 19 CFR 351.511(a).

<sup>105</sup> See *Citric Acid Second Review* ID Memo at "Provision of Steam Coal for LTAR."

<sup>106</sup> See Department's IQ issued to the GOC (July 11, 2012) at "Provision of Steam Coal for LTAR."

<sup>107</sup> See GOC's IQR at 25 - 26.

<sup>108</sup> See *Id.* at 26 and 2SQR (May 3, 2013) at 1.

In the *Citric Acid Second Review*, the Department found that it is reasonable to conclude that actual transaction prices are significantly distorted as a result of the government's involvement in the market. As such, we preliminarily determine that domestic prices by coal producers based in the PRC and import prices into the PRC may not serve as viable, tier one benchmark prices.<sup>109</sup>

No new evidence was presented in this review that would call into question that finding. Accordingly, to determine whether the provision of steam coal conferred a benefit within the meaning of section 771(5)(E)(iv) of the Act, consistent with the *Citric Acid Second Review*, we applied a tier two benchmark, *i.e.*, world market prices available to purchasers in the PRC (*see* 19 CFR 351.511(a)(2)(ii)).

Petitioners submitted monthly steam coal prices for January 2011, through December 2011: reported by the IMF for Australia (Newcastle); from the Platts International Coal Report (Platts Report) for Australia (Gladstone), Japan, Korea, Colombia, Poland, and Russia; and from Global Trade Atlas for Australia, Belgium, Bulgaria, Colombia, Egypt, France, Germany, Greece, Italy, Malaysia, Mexico, Netherlands, Peru, Poland, Slovenia, South Korea, Spain, Thailand, Turkey, United Kingdom, and United States.<sup>110</sup> RZBC Companies submitted monthly export values for 2011 from Global Trade Atlas for India, Indonesia, South Africa, United States 1,<sup>111</sup> United States 2,<sup>112</sup> Australia, and Columbia.<sup>113</sup> The Department's regulations at 19 CFR 351.511(a)(2)(ii) state that where there is more than one commercially available world market price, the Department will average the prices to the extent practicable. Therefore, where more than one benchmark price was submitted for a given month, we averaged those prices to calculate the single benchmark price for that month.

Under 19 CFR 351.511(a)(2)(iv), when measuring the adequacy of remuneration under tier two, the Department will adjust the benchmark price to reflect the price that a firm actually paid or would pay if it imported the product, including delivery charges and import duties. Accordingly, in deriving the benchmark prices, we included international freight and inland freight. The international ocean freight rates used are an average of the freight rates submitted on the record by Petitioners and RZBC Companies. Petitioners placed on the record ocean freight pricing data from Haver Analytics, for the POR, pertaining to shipments of steam coal from various world ports (in Australia (Newcastle), Australia (Gladstone), Colombia (Bolívar), Poland (Gdansk), and Russia (St. Petersburg)) to Qingdao, China.<sup>114</sup> RZBC Companies placed on the record ocean freight pricing data from Maersk and Searates, for the POR, pertaining to shipments of steam coal from India (Nhava Sheva), Indonesia (Jakarta), Peru (Callao), South Africa (Durban), and the U.S. (Los Angeles) to Shanghai, China.<sup>115</sup> We averaged the international freight rates to derive the amount included in our benchmark.

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<sup>109</sup> See Citric Acid Second ID Memo at "Provision of Steam Coal for LTAR."

<sup>110</sup> See Petitioner's Factual Information at Exhibit 17.

<sup>111</sup> RZBC Companies submitted benchmark prices from the United States for HTS - 2701120050: Bituminous Coal Nt Metallurgical, Not Agglomerated.

<sup>112</sup> RZBC Companies submitted benchmark prices from the United States for HTS - 2701190010: Sub-Bituminous Coal.

<sup>113</sup> See RZBC Companies' Factual Information at Exhibit 1C and RZBC Companies' Submission of Additional Factual Information (November 21, 2013) (RZBC Companies' Additional Factual Information) at Exhibit 2. Where we could, we extracted from the pricing data export prices to China. If we could not extract export prices to China, then we excluded the price from the average monthly benchmark price.

<sup>114</sup> See Petitioner's Factual Information at Exhibit 18.

<sup>115</sup> See RZBC Companies' Factual Information at Exhibit 1A.

RZBC Companies purchased steam coal from domestic sources, therefore, for inland freight we relied on RZBC Companies' reported inland freight expense to transport citric acid from its plant to the port.<sup>116</sup> Additionally, to derive the benchmark, we included import duties and the VAT applicable to imports of steam coal into the PRC as reported by the GOC.<sup>117</sup> We did not include marine insurance. In prior CVD investigations involving the PRC, the Department found that while the PRC customs authorities impute an insurance cost on certain imports for purposes of levying duties and compiling statistical data, there is no evidence to suggest that PRC customs authorities require importers to pay insurance charges.<sup>118</sup>

Comparing the adjusted benchmark prices to the prices paid by RZBC Co. and RZBC Juxian for steam coal during the POR, we preliminarily find that the GOC provided steam coal for less than adequate remuneration, and that a benefit exists in the amount of the difference between the benchmark price and the price that the companies paid.<sup>119</sup> To calculate the benefit, we calculated the difference between the delivered world market price and the price that the companies paid for steam coal, including delivery charges. We next divided the sum of the price differentials by the total consolidated sales of RZBC Co., RZBC Juxian, and RZBC IE (excluding inter-company sales). On this basis, we preliminarily determine that the RZBC Companies received a countervailable subsidy of 3.17 percent *ad valorem* in 2010.

G. Provision of Land for LTAR to Enterprises in Strategic Emerging Industries in Shandong Province

As explained in our NSA Decision Memorandum,<sup>120</sup> we are investigating the extent to which Shandong Province has industrial plans in place that support the provision of land to strategic emerging industries for LTAR. RZBC Co. reported that it purchased two parcels of land in the Rizhao Hi-Tech Industrial Development Zone (Rizhao Zone) from the Rizhao Land Resources Bureau on September 14, 2011; and RZBC Juxian reported it purchased one parcel of land in the Shandong Ju County Industry Park Zone (Ju County Zone) from the Juxian Land Resources Bureau on November 18, 2010.<sup>121</sup>

According to *Implementation Opinions of the People's Government of Shandong Province on Accelerating the Cultivation and Development of Strategic Emerging Industries (Shandong Province Implementation)*, Shandong Province called for the implementation of preferential land policy: "governments at all levels should give priorities to strategic emerging industries when supplying the land, and for strategic emerging industry projects that qualify for priority industries and intensive land use, may specify a land grant floor price no less than 70 {percent} of the lowest price of the industrial land corresponding to the land of the locality."<sup>122</sup> Attached to the *Shandong Province Implementation* is a list of the "First Batch of Provincial-Level Strategic Emerging Industry Projects of Shandong Province" naming RZBC Group with a

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<sup>116</sup> See RZBC Companies' IQR at "RZBC Co." at page III-34 and "RZBC Juxian" at page III-33.

<sup>117</sup> See GOC's 1SQR (March 1, 2013) at 11.

<sup>118</sup> See, e.g., PC Strand Decision Memorandum at Comment 13.

<sup>119</sup> See 19 CFR 351.511(a).

<sup>120</sup> See Memorandum to the File to Melissa Skinner, Director, AD/CVD, Office 8, through Eric Greynolds, Program Manager, AD/CVD Operations, Office 8, from Kristen Johnson, International Trade Compliance Analyst, AD/CVD Operations, Office, "Decision Memorandum on New Subsidy Allegations," dated January 25, 2013 (NSA Decision Memorandum).

<sup>121</sup> See RZBC Companies' NSAQR (March 8, 2013) at pages 1 through 6.

<sup>122</sup> See GOC's 2SQR (May 10, 2013) at Exhibit 4.

project of industrialization and application of citric acid biological conversion technology.<sup>123</sup> We preliminarily find that the benefits provided under this program are limited to strategic emerging industries, and thus, are *de jure* specific under section 771(5A)(D)(i) of the Act.

We also preliminarily find that the land-use contracts signed by RZBC Co. with the Rizhao Land Resources Bureau in 2011 for land in the Rizhao Zone and land-use contracts signed by RZBC Juxian with the Juxian Land Resources Bureau in 2010 for land in the Ju County Zone constitute negotiations between RZBC Companies and the government authorities managing each zone. We preliminarily find that the provisions of land for LTAR constitute financial contributions in the form of a provision of a good within the meaning of section 771(5)(D)(iii) of the Act.<sup>124</sup> The provision of land constitutes a benefit to the extent the local land authority provides them for LTAR.<sup>125</sup>

To determine whether RZBC Co. and RZBC Juxian received a benefit, we have analyzed potential benchmarks in accordance with 19 CFR 351.511(a). First, we look to whether there are market-determined prices (referred to as tier-one prices in the LTAR regulation) within the country.<sup>126</sup> In *LWS from the PRC* and past investigations, the Department determined that “Chinese land prices are distorted by the significant government role in the market” and, hence, that tier-one benchmarks do not exist.<sup>127</sup> The Department also found that tier-two benchmarks, world market land prices that would be available to purchasers in China, are not appropriate because “they cannot be simultaneously ‘available to an in-country purchaser’ while located and sold out-of-country on the world market.”<sup>128</sup> Because benchmarks were unavailable under the first and second tiers, in *LWS from the PRC* the Department determined the adequacy of remuneration by reference to tier-three.<sup>129</sup> In *LWS from the PRC* the Department found, however, that the sale of land-use rights in China was not consistent with market principles because of the overwhelming presence of the government in the land-use rights market and the widespread and documented deviation from the authorized methods of pricing and allocating land.<sup>130</sup> We determine that in this administrative review, the GOC has submitted no information that questions this analysis.

For these reasons, we are not able to use Chinese or world market prices as a benchmark.

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<sup>123</sup> See *Id.* and RZBC Companies’ ISQR (March 8, 2013) at Exhibit 7 “RZBC Juxian’s Certificate of Strategic Emerging Industry.”

<sup>124</sup> The Department determined in *LWS from the PRC* that the provision of land-use rights constitutes the provision of a good within the meaning of section 771(5)(D)(iii) of the Act. See *Laminated Woven Sacks from the People’s Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination, in Part, of Critical Circumstances*, 73 FR 35639 (June 24, 2008) (*LWS from the PRC*), and accompanying Issues and Decision Memorandum (LWS from the PRC Decision Memorandum) at Comment 8.

<sup>125</sup> See section 771(5)(E)(iv) of the Act.

<sup>126</sup> See 19 CFR 351.511(a)(2)(i).

<sup>127</sup> See *Id.*, LWS from the PRC Decision Memorandum at Comment 10, and also Seamless Pipe Decision Memorandum at Comment 15, *Certain Oil Country Tubular Goods From the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Negative Critical Circumstances Determination*, 74 FR 64045 (December 7, 2009) (*OCTG from the PRC*), and the accompanying Issues and Decision Memorandum (OCTG from the PRC Decision Memorandum) at Comment 16, and *Aluminum Extrusions From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 18524 (April 4, 2011) (*Aluminum Extrusions from the PRC*), and the accompanying Issues and Decision Memorandum (Aluminum Extrusions Decision Memorandum) at Comment 24.

<sup>128</sup> *LWS from the PRC* at “Analysis of Programs – Government Provision of Land for Less Than Adequate Remuneration” (internal citation omitted); see also 19 CFR 351.511(a)(2)(ii).

<sup>129</sup> *Id.*

<sup>130</sup> See LWS from the PRC Decision Memorandum at Comment 10; see also 19 CFR 351.511(a)(2)(iii).

Therefore, we are comparing the price that RZBC Co. and RZBC Juxian paid for their land-use rights with comparable market-based prices for land purchases in a country at a comparable level of economic development that is reasonably proximate to, but outside of, China. Specifically, we are comparing the prices RZBC Juxian paid in 2010 and RZBC Co. paid in 2011 to the price of certain industrial land in industrial estates, parks, and zones in Thailand in 2010 and 2011.<sup>131</sup>

To calculate the benefit, we calculated the difference between the price RZBC Co. and RZBC Juxian paid for their land-use rights and a Thai land benchmark. For purchased land, we next conducted the “0.5 percent test” of 19 CFR 351.524(b)(2) for the year of the relevant land-use agreement by dividing the total benefit for each tract by the appropriate sales denominator. If more than one tract was provided in a single year, we combined the total benefits from the tracts before conducting the “0.5 percent test.”

Our analysis indicates that the subsidy amount exceeded the 0.5 percent threshold. Therefore, we used the discount rate described under the “Benchmarks and Discount Rates” section above to allocate the benefit over the life of the land-use rights contract, which is 50 years. To calculate the net subsidy rate, we divided the benefit by the total consolidated sales of RZBC Co., RZBC Juxian, and RZBC IE (excluding inter-company sales) for the POR. On this basis, we calculated a net subsidy rate of 1.37 percent *ad valorem* for the RZBC Companies.

#### H. Return of Land Use Right Deed Tax

RZBC Group reported that it received a grant from Rizhao City Donggang District during the POR because it is an enterprise planning an initial public offering.<sup>132</sup> We determine that the grant received by RZBC Group constitutes a financial contribution and a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. Regarding specificity, because the grant is limited to firms undertaking an initial public offering, we determine that the grant is specific under section 771(5A)(D)(i) of the Act.

The grant that RZBC Group received during the POR was less than 0.5 percent of the total consolidated sales of RZBC Group, RZBC Co., RZBC Juxian, and RZBC IE (excluding inter-company sales) for the POR. Therefore, pursuant to 19 CFR 351.524(b)(2), we expensed the grant amounts to the POR. On this basis, we determine that the RZBC Companies received a countervailable subsidy of 0.05 percent *ad valorem*.

#### I. Award for Contribution to City and People

RZBC Group reported that it received a grant from Rizhao City Donggang District during the POR because the company’s total tax payment to Donggang District reached a certain level.<sup>133</sup> The company did not apply for this grant.

We preliminarily determine that the grant received by RZBC Co. constitutes a financial contribution and a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. As discussed under “Use of Facts Otherwise Available and Adverse Inferences,” above, the

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<sup>131</sup> See LWS from the PRC Decision Memorandum at “Analysis of Programs – Government Provision of Land for Less Than Adequate Remuneration” and Comment 10; and Memorandum to the File from Patricia Tran, International Trade Compliance Analyst, Antidumping and Countervailing Duty Operations 8, regarding “Preliminary Results Calculation Memorandum” (Prelim Calc Memo) (June 3, 2013).

<sup>132</sup> See RZBC Companies’ IQR at “RZBC Group” page III-38, and 1SQR (March 1, 2013) at 7.

<sup>133</sup> See RZBC Companies’ 1SQR (March 1, 2013) at 3 and 4.

Department is relying on AFA to preliminarily determine that the grant program is specific because the GOC failed to provide information, which was requested of it on two occasions, regarding the details of the government assistance.

The grant that RZBC Group received during the POR was less than 0.5 percent of the total consolidated sales of RZBC Group, RZBC Co., RZBC Juxian, and RZBC IE (excluding inter-company sales) for the POR. Therefore, pursuant to 19 CFR 351.524(b)(2), we expensed the grant amount to the POR. On this basis, we preliminarily determine that the RZBC Companies received a countervailable subsidy of 0.01 percent *ad valorem*.

J. Enterprise Technology Research and Development Subsidy<sup>134</sup>

RZBC Group reported that it received a grant from Rizhao City Donggang District during the POR because it has qualified as an enterprise technology research and development center.<sup>135</sup> We preliminarily determine that the grant received by RZBC Group constitutes a financial contribution and a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. Regarding specificity, because the grant is limited to technology research and development centers, we preliminarily determine that the grant is specific under section 771(5A)(D)(i) of the Act.

The grant that RZBC Group received during the POR was less than 0.5 percent of the total consolidated sales of RZBC Group, RZBC Co., RZBC Juxian, and RZBC IE (excluding inter-company sales) for the POR. Therefore, pursuant to 19 CFR 351.524(b)(2), we expensed the grant amounts to the POR. On this basis, we preliminarily determine that the RZBC Companies received a countervailable subsidy of 0.03 percent *ad valorem*.

K. Financial Resource Construction Award<sup>136</sup>

RZBC Group reported that it received grants from Rizhao City under four different sub-categories during the POR because of its tax payment, enterprise technology research and development center, Shandong Province famous trademark, and quality management.<sup>137</sup> We preliminarily determine that the grant received by RZBC Group constitutes a financial contribution and a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. As discussed under “Use of Facts Otherwise Available and Adverse Inferences,” above, the Department is relying on AFA to preliminarily determine that the grant program is specific because the GOC failed to provide information, which was requested of it on two occasions, regarding the details of the government assistance.

The grant that RZBC Group received during the POR was less than 0.5 percent of the total consolidated sales of RZBC Group, RZBC Co., RZBC Juxian, and RZBC IE (excluding

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<sup>134</sup> We initiated the examination of “Awards to Enterprise Technology Centers in the Donggang District” as a new subsidy program. In RZBC Companies’ March 1, 2013, NSAQR, it responded that “Awards to Enterprise Technology Centers in the Donggang District” is the same program as “Enterprise Technology Research and Development Subsidy,” therefore we preliminary find countervailable benefits to RZBC Companies under “Enterprise Technology Research and Development Subsidy.”

<sup>135</sup> See RZBC Companies’ IQR at “RZBC Group” page III-38, and 1SQR (March 1, 2013) at 7.

<sup>136</sup> Also known as “Award for Financial Construction,” which we found countervailable in *Citric Acid Second Review*.

<sup>137</sup> See RZBC Companies’ IQR at “RZBC Group” page III-43 through III-44, III-62 through III-64, and 1SQR (March 1, 2013) at 4 through 5.

inter-company sales) for the POR. Therefore, pursuant to 19 CFR 351.524(b)(2), we expensed the grant amounts to the POR. On this basis, we preliminarily determine that the RZBC Companies received a countervailable subsidy of 0.06 percent *ad valorem*.

L. Technology Innovation Advanced Unit Award<sup>138</sup>

RZBC Group reported that it received a grant from Rizhao City during the POR because it operated a technology innovation project.<sup>139</sup> We preliminarily determine that the grant received by RZBC Group constitutes a financial contribution and a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. Regarding specificity, because the grant is limited to enterprises with technology innovation projects, we determine that the grant is specific under section 771(5A)(D)(i) of the Act.

The grant that RZBC Group received during the POR was less than 0.5 percent of the total consolidated sales of RZBC Group, RZBC Co., RZBC Juxian, and RZBC IE (excluding inter-company sales) for the POR. Therefore, pursuant to 19 CFR 351.524(b)(2), we expensed the grant amounts to the POR. On this basis, we preliminarily determine that the RZBC Companies received a countervailable subsidy of 0.01 percent *ad valorem*.

M. Special Fund for Foreign Trade Public Service Platform

RZBC Group reported that it received a grant from Rizhao City during the POR because it has a citric acid biological manufacturing technology research and development project.<sup>140</sup> We preliminarily determine that the grant received by RZBC Group constitutes a financial contribution and a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. Regarding specificity, because the grant is limited to enterprises with research and development projects, we determine that the grant is specific under section 771(5A)(D)(i) of the Act.

The grant that RZBC Group received during the POR was less than 0.5 percent of the total consolidated sales of RZBC Group, RZBC Co., RZBC Juxian, and RZBC IE (excluding inter-company sales) for the POR. Therefore, pursuant to 19 CFR 351.524(b)(2), we expensed the grant amounts to the POR. On this basis, we preliminarily determine that the RZBC Companies received a countervailable subsidy of 0.04 percent *ad valorem*.

N. Subsidy for Providing Employment Internship Base

RZBC Group reported that it received a grant from Rizhao City during the POR because it provided an internship program to the city's college graduates.<sup>141</sup> The program was established pursuant to Rizhao City's *Administration Measures of Rizhao College Graduates Employment Internship* (Lu Ren She 2011 No. 8), *Notice of Further Strengthen College*

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<sup>138</sup> We initiated an examination of "Award to Advanced Industry-Academia-Research Cooperation Innovation Entities of Shandong Province" as a new subsidy allegation. In RZBC Companies' March 1, 2013, NSAQR, it responded that "Award to Advanced Industry-Academia-Research Cooperation Innovation Entities of Shandong Province" is the same program as "Technology Innovation Advanced Units Award," therefore we preliminarily find countervailable benefits to RZBC Companies under "Technology Innovation Advanced Units Award."

<sup>139</sup> See RZBC Companies' IQR at "RZBC Group" page III-45 through III-46, III-65 through III-67, and Exhibit 13.

<sup>140</sup> See *Id.* at "RZBC Group" page III-47 through III-48, III-68 through III-70, and Exhibit 14 and 15.

<sup>141</sup> See *Id.* at "RZBC Group" page III-49 through III-50, III-71 through III-73, and Exhibit 17; and RZBC Companies' 1SQR (March 1, 2013) at 6 and Exhibit 6.

*Graduates Employment Internship Base* (Ri Zheng Fa 2006 No. 42), and *Temporary Administration Method of Rizhao College Graduates Employment Internship (Trial Measures)* (Ri Ren Fa 2006 No. 42) and the Rizhao City’s mandate to “develop college graduates employment internship work.” The program is administered by Rizhao Human Resource and Social Security Bureau.<sup>142</sup> We preliminarily determine that the grant received by RZBC Group constitutes a financial contribution and a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. As discussed under “Use of Facts Otherwise Available and Adverse Inferences,” above, the Department is relying on AFA to preliminarily determine that the grant program is specific under section 771(5A) of the Act because the GOC failed to provide information, which was requested of it on two occasions, regarding the details of the government assistance.

The grant that RZBC Group received during the POR was less than 0.5 percent of the total consolidated sales of RZBC Group, RZBC Co., RZBC Juxian, and RZBC IE (excluding inter-company sales) for the POR. Therefore, pursuant to 19 CFR 351.524(b)(2), we expensed the grant amounts to the POR. On this basis, we preliminarily determine that the RZBC Companies received a countervailable subsidy of 0.01 percent *ad valorem*.

O. Shandong Province Science and Technology Development Fund

In the *Citric Acid Second Review*, the Department found this program to be countervailable.<sup>143</sup> On the record of the instant review, the GOC stated that there were no changes to the program during the POR.<sup>144</sup> As we discussed in the preliminary results of the second review, the GOC reported that this program was established in 2004, pursuant to the *Provisional Measures on Shandong Province Applied Technology Research and Development Fund (the Provisional Measures)*, to facilitate the development of science and technology in Shandong Province.<sup>145</sup> The program is jointly administered by the Shandong Province Department of Finance and Shandong Province Science and Technology Department.<sup>146</sup>

The GOC provided a copy of *the Provisional Measures* which, at Article 2, states that the fund is to promote technological development and strengthen technological application.<sup>147</sup> As stated in Article 8, the fund will cover the project fees and plan management fees, *i.e.*, labor, equipment, energy, and travel costs.<sup>148</sup> RZBC Co. reported that it received a subsidy under this program during the POR.<sup>149</sup>

We found that the grants received by RZBC Co. under Shandong Province’s Applied Technology Research and Development Fund constitute a financial contribution, in the form of a direct transfer of funds from the government, which bestows a benefit equal to the amount of the grant within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act. We also found that, because the receipt of assistance under the program is limited in law to certain enterprises, *i.e.*, companies with science and technological development projects, the program is *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act.

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<sup>142</sup> See RZBC Companies’ ISQR (March 1, 2013) at Exhibit 6.

<sup>143</sup> See Citric Acid Second Review ID Memo at “Shandong Province Science and Technology Development Fund.”

<sup>144</sup> See GOC’s IQR (September 4, 2012) at 18.

<sup>145</sup> See Citric Acid Second Review ID Memo at “Shandong Province Science and Technology Development Fund.”

<sup>146</sup> See GOC’s IQR at 19.

<sup>147</sup> See *Id.* at Exhibit 4.

<sup>148</sup> *Id.*

<sup>149</sup> See RZBC Companies’ IQR at “RZBC Co.” page III-41 through III-43, and Exhibit 16 and 17.

To calculate the benefit in the instant review, we divided the grant amount approved by the total consolidated sales of RZBC Co., RZBC Juxian, and RZBC IE (excluding inter-company sales) for the year in which the grant was approved and found that the amount was less than 0.5 percent. Therefore, in accordance with 19 CFR 351.524(b)(2), we are expensing the total amount of the grant to the year of receipt, which is the POR. On this basis, we preliminarily determine that the RZBC Companies received a countervailable subsidy of 0.02 percent *ad valorem*.

P. Application Technology Research and Development Fund

RZBC Co. reported that it received grants from Rizhao City during the POR because it operated technology improvement projects.<sup>150</sup> We preliminarily determine that the grant received by RZBC Co. constitutes a financial contribution and a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. Regarding specificity, because the grant is limited to enterprises with technology improvement projects, we determine that the grant is specific under section 771(5A)(D)(i) of the Act.

To calculate the benefit in the instant review, we divided the grant amount approved by the total consolidated sales of RZBC Co., RZBC Juxian, and RZBC IE (excluding inter-company sales) for the year in which the grant was approved and found that the amount was less than 0.5 percent. Therefore, in accordance with 19 CFR 351.524(b)(2), we are expensing the total amount of the grant to the year of receipt, which is the POR. On this basis, we preliminarily determine that the RZBC Companies received a countervailable subsidy of 0.01 percent *ad valorem*.

Q. Self-Innovation Special Fund

RZBC Juxian reported that it received a grant from Rizhao City during the POR because the company had a “citric acid production technology development and application project.”<sup>151</sup> We preliminarily determine that the grant received by RZBC Juxian constitutes a financial contribution and a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. Regarding specificity, because the grant is limited to enterprises with technology development projects, we determine that the grant is specific under section 771(5A)(D)(i) of the Act.

To calculate the benefit, we divided the grant amount approved by the total consolidated sales of RZBC Co., RZBC Juxian, and RZBC IE (excluding inter-company sales) for the year in which the grant was approved and found that the amount was less than 0.5 percent. Therefore, in accordance with 19 CFR 351.524(b)(2), we are expensing the grant to the POR, the year of receipt. On this basis, we preliminarily determine that the RZBC Companies received a countervailable subsidy of 0.02 percent *ad valorem*.

R. Economic Task Special Contribution Award

RZBC Juxian reported that it received a grant from the township government during the POR because the company made economic contribution.<sup>152</sup> We preliminarily determine that the

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<sup>150</sup> See *Id.* at “RZBC Co.” page III-39 through III-40, III-47 through III-49, and Exhibits 20 and 21.

<sup>151</sup> *Id.* at “RZBC Juxian” page III-39, III-57 through III-59, and Exhibits 20 and 21.

<sup>152</sup> *Id.* at “RZBC Juxian” page III-44 through III-45, III-66 through III-68, and Exhibits 24 and 25.

grant received by RZBC Juxian constitutes a financial contribution and a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. As discussed under “Use of Facts Otherwise Available and Adverse Inferences,” above, the Department is relying on AFA to preliminarily determine that the grant program is specific under section 771(5A) of the Act because the GOC failed to provide information, which was requested of it on two occasions, regarding the details of the government assistance.

To calculate the benefit, we divided the grant amount approved by the total consolidated sales of RZBC Co., RZBC Juxian, and RZBC IE (excluding inter-company sales) for the year in which the grant was approved and found that the amount was less than 0.5 percent. Therefore, in accordance with 19 CFR 351.524(b)(2), we are expensing the grant to the POR, the year of receipt. On this basis, we preliminarily determine that the RZBC Companies received a countervailable subsidy of 0.01 percent *ad valorem*.

S. Self-Innovation Achievement Convert into Major Industry Structure Optimization Upgrade Project

RZBC Juxian reported that it received a grant from the provincial government during the POR because the company had technology innovation projects.<sup>153</sup> We preliminarily determine that the grant received by RZBC Juxian constitutes a financial contribution and a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. Regarding specificity, because the grant is limited to enterprises with technology innovation projects, we determine that the grant is specific under section 771(5A)(D)(i) of the Act.

To calculate the benefit, we divided the grant amount approved by the total consolidated sales of RZBC Co., RZBC Juxian, and RZBC IE (excluding inter-company sales) for the year in which the grant was approved and found that the amount was less than 0.5 percent. Therefore, in accordance with 19 CFR 351.524(b)(2), we are expensing the grant to the POR, the year of receipt. On this basis, we preliminarily determine that the RZBC Companies received a countervailable subsidy of 0.27 percent *ad valorem*.

T. Shandong Self-Innovation Subsidy

In the *Citric Acid Second Review*, the Department found this program to be countervailable.<sup>154</sup> The GOC reported that this program was established in 2007, pursuant to the *Measures on Shandong Province Self-Innovation Results Commercialization Special Fund (the Measures)*, to promote the commercialization of self-innovation, to facilitate the development of high technology industries with intellectual property rights, to guide economic growth and to improve the competitiveness of Shandong Province.<sup>155</sup> The program is jointly administered by the Shandong Province Department of Finance and Shandong Province Science and Technology Department.<sup>156</sup>

The GOC provided a copy of the *Measures* which, at Article 8, state that the fund is to strictly adhere to the strategic plan of Shandong Province’s medium- and long-term technology

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<sup>153</sup> *Id.* at “RZBC Juxian” page III-40 through III-41, III-60 through III-62, and Exhibit 22.

<sup>154</sup> See *Citric Acid Second Review ID Memo* at “Shandong Self-Innovation Subsidy.”

<sup>155</sup> See GOC’s IQR at 21 through 24 and Exhibit 5.

<sup>156</sup> See *Id.* at 22.

development plan and focus on the development of 15 high-tech industry groups.<sup>157</sup> As stated in Article 10, depending on the characteristics of the project and enterprise, assistance under the fund consists of direct funding of projects, equity investment, discount loans, financial rewards, and reimbursable aid.<sup>158</sup>

RZBC Juxian reported that it received a subsidy under this program during the POR.<sup>159</sup> The GOC stated that there were no changes to this program during the POR.<sup>160</sup>

We found that the grant received by RZBC Juxian under Shandong Province's Self-Innovation Results Commercialization Special Fund constitutes a financial contribution, in the form of a direct transfer of funds from the government, which bestows a benefit equal to the amount of the grant within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act. We also found that, because the receipt of assistance under the program is limited in law to certain enterprises, *i.e.*, 15 high-technology industry groups, the program is specific within the meaning of section 771(5A)(D)(i) of the Act.

To calculate the benefit, we divided the grant amount approved by the total consolidated sales of RZBC Co., RZBC Juxian, and RZBC IE (excluding inter-company sales) for the year in which the grant was approved and found that the amount was less than 0.5 percent. Therefore, in accordance with 19 CFR 351.524(b)(2), we are expensing the grant to the POR, the year of receipt. On this basis, we preliminarily determine that the RZBC Companies received a countervailable subsidy of 0.03 percent *ad valorem*.

#### U. Special Fund for Pollution Control of Three Rivers, Three Lakes, and the Songhua River

The Department found this program to be countervailable in the *Citric Acid First Review* and *Citric Acid Second Review*.<sup>161</sup> On the record of the instant review, the GOC stated that there were no changes to the program during the POR.<sup>162</sup> RZBC Juxian reported that it applied and received a benefit under this program during the POR.<sup>163</sup>

This program was established pursuant to the State Council's *Comprehensive Work Plan on Energy Conservation and Emission Reduction* (Guo Fa 2007 No. 7115) and the State Council's mandate to "strengthen pollution control of Three Rivers, Three Lakes, and the Songhua River."<sup>164</sup> The program is administered by the Shandong Finance Department and the Shandong Environmental Protection Bureau.<sup>165</sup> The purpose of the program is to enhance pollution control efforts by financing projects affecting the Huaihe River, Haihe River, Liaohe River, Taihu Lake, Chaohu Lake, Dianchi Lake, and the Songhua River.<sup>166</sup>

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<sup>157</sup> *Id.* at Exhibit 5.

<sup>158</sup> *Id.* at Exhibit 5.

<sup>159</sup> See RZBC Companies' IQR at "RZBC Juxian" pages III-28, III-54 through III-56, and Exhibits 18 and 19.

<sup>160</sup> See GOC's IQR at 21 and 24.

<sup>161</sup> See Citric Acid First Review ID Memo at "Other Subsidies Received by RZBC" and "Special Fund for Pollution Control of Three Rivers, Three Lakes, and the Songhua River" and Citric Acid Second Review ID Memo at "Special Fund for Pollution Control of Three Rivers, Three Lakes, and the Songhua River."

<sup>162</sup> See *Id.* at 16.

<sup>163</sup> See RZBC Companies' IQR at "RZBC Juxian" pages III-28, III-51 through III-53, and Exhibits 16 and 17.

<sup>164</sup> See GOC's IQR at Exhibit 3.

<sup>165</sup> See *Id.* at 16.

<sup>166</sup> *Id.* at Exhibit 3.

Because the fund is limited to enterprises located in these designated areas, the Department determined in the *Citric Acid First Review* that the program is specific within the meaning of section 771(5A)(D)(iv) of the Act.<sup>167</sup> The Department also found that these grants are direct transfers of funds within the meaning of section 771(5)(D)(i) of the Act and that they provide a benefit in the amount of the grant under 19 CFR 351.504(a).<sup>168</sup>

To calculate the benefit in the instant review, we divided the grant amount approved by the total consolidated sales of RZBC Co., RZBC Juxian, and RZBC IE (excluding inter-company sales) for the year in which the grant was approved and found that the amount was less than 0.5 percent. Therefore, in accordance with 19 CFR 351.524(b)(2), we are expensing the total amount of the grant to the year of receipt, which is the POR. On this basis, we preliminarily determine that the RZBC Companies received a countervailable subsidy of 0.43 percent *ad valorem*.

#### V. Fund for Energy-saving Technological Innovation

We found this program to be countervailable in the *Citric Acid First Review*.<sup>169</sup> In this instant review, the GOC stated that there were no changes to this program during the POR.<sup>170</sup> RZBC Juxian reported that it applied and received a benefit under this program during the POR.<sup>171</sup> This program was established on August 10, 2007, pursuant to the *Circular on the Issuance of Interim Measures on Financial Award Funds for Energy-saving Technological Innovation* and the mandate was “to guarantee the practical effect of technological innovation project of energy conservation.”<sup>172</sup> The program is administered by the Ministry of Finance and National Development and Reform Commission.<sup>173</sup>

The Department has found that these grants are direct transfers of funds within the meaning of section 771(5)(D)(i) of the Act and that they provide a benefit in the amount of the grant under 19 CFR 351.504(a).<sup>174</sup> Because the fund is limited to enterprises with technological innovation projects, the Department has also determined that the program is specific within the meaning of section 771(5A)(D)(i) of the Act.

To calculate the benefit in the instant review, we divided the grant amount approved by the total consolidated sales of RZBC Co., RZBC Juxian, and RZBC IE (excluding inter-company sales) for the year in which the grant was approved and found that the amount was less than 0.5 percent. Therefore, in accordance with 19 CFR 351.524(b)(2), we are expensing the total amount of the grant to the year of receipt, which is the POR. On this basis, we preliminarily determine that the RZBC Companies received a countervailable subsidy of 0.04 percent *ad valorem*.

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<sup>167</sup> See *Citric Acid First Review ID Memo* and *Citric Acid Second Review ID Memo* at “Special Fund for Pollution Control of Three Rivers, Three Lakes, and the Songhua River.”

<sup>168</sup> *Id.*

<sup>169</sup> See *Citric Acid First Review ID Memo* at “Other Subsidies Received by RZBC” and “Fund for Energy-saving Technological Innovation.”

<sup>170</sup> *Id.* at 7.

<sup>171</sup> See RZBC Companies’ IQR at “RZBC Juxian” page III-28, III-48 through III-50, and Exhibits 14 and 15.

<sup>172</sup> See GOC’s IQR at Exhibit 2.

<sup>173</sup> See *Id.* at 7.

<sup>174</sup> See *Citric Acid First Review ID Memo* at “Special Fund for Pollution Control of Three Rivers, Three Lakes, and the Songhua River.”

W. Enterprise Development Supporting Fund from Zibo City Financial Bureau

In *Citric Acid First Review* and *Citric Acid Second Review*, the Department found that Sisha, RZBC Co.'s prior cross-owned parent company, received a countervailable subsidy under this program in 2003.<sup>175</sup> The Department determined to use Sisha's consolidated sales as reported by Sisha as the denominator for the 2003 allocation test pursuant to 19 CFR 351.524(b)(2).<sup>176</sup> We found that the 2003 grant was greater than 0.5 percent of the reported consolidated sales for 2003.<sup>177</sup> Thus, because the 2003 grant was a non-recurring benefit consistent with 19 CFR 351.524(c)(2)(iii), we allocated the benefit over the 10-year AUL.

Because RZBC Co. and Sisha ceased to be cross-owned after March 2008, we applied a Sisha/RZBC Co. sales ratio to compute the benefit attributable to the RZBC Companies during the POR; this approach is consistent with the Department's decision in *Citric Acid First Review*.<sup>178</sup> We then divided that benefit amount by RZBC Co.'s, RZBC IE's, and RZBC Juxian's total combined sales (excluding inter-company sales) for 2011 to obtain the *ad valorem* subsidy rate. On this basis, we preliminary find that the RZBC Companies received a countervailable subsidy of 0.06 percent *ad valorem*.

II. Program For Which More Information is Required

A. Provision of Calcium Carbonate for LTAR

According to RZBC Companies' March 1, 2013, NSA QR, RZBC Co. and RZBC Juxian purchased calcium carbonate during the POR.<sup>179</sup> The Department requires additional information that would allow us to analyze whether this program is countervailable. We have requested additional information regarding RZBC Companies' input producers from the GOC and the current due date for the information is June 5, 2013, after the preliminary determination.<sup>180</sup> We will address whether this program is countervailable in a post-preliminary analysis.

III. Programs Preliminarily Determined Not To Provide Countervailable Benefits During the POR

After the Department inquired about several items in each company's financial statement, RZBC Companies reported that it received a total of 21 grants from various governmental entities. RZBC Companies reported that RZBC Group received 10 grants in 2011; RZBC Co. received 4 grants in 2010 and 2011; and RZBC Juxian received 8 grants in 2010 and 2011. Those grants for which we preliminarily find a countervailable benefit are described above. We preliminarily determine that the benefit from the programs listed below each result in a net subsidy rate that is less than 0.005 percent *ad valorem*. Consistent with our past practice, we

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<sup>175</sup> See *Citric Acid First Review* ID Memo and *Citric Acid Second Review* ID Memo at "Enterprise Development Fund from Zibo City Financial Bureau."

<sup>176</sup> *Id.*

<sup>177</sup> *Id.*

<sup>178</sup> *Id.*

<sup>179</sup> See RZBC Companies' NSA QR (March 1, 2013) at 11-12.

<sup>180</sup> See The Department's 3SQ (May 29, 2013).

preliminarily have not included these programs in our net countervailing duty rate calculations.<sup>181</sup>

- A. Award for Shandong Province Famous Trademark
- B. Foreign Trade Development Special Fund
- C. Subsidy for Monitoring Unemployment Information Collection
- D. Award for Enterprise Technology Improvement Project
- E. Enterprise Technology Improvement Award
- F. Financial Grant for Enterprise Outstanding Financial Information Works

#### IV. Programs Preliminarily Determined Not to be Used<sup>182</sup>

We preliminarily find that the RZBC Companies did not use the following programs during the POR:

1. Reduced Income Tax Rates to Foreign Invested Enterprises (FIEs) Based on Location
2. Reduced Income Tax Rate for Tech or Knowledge Intensive FIEs
3. Two Free, Three Half Tax Program for FIEs
4. Local Income Tax Exemption & Reduction Program for Productive FIEs
5. VAT Rebate on Purchases by FIEs of Domestically Produced Equipment
6. Famous Brands - Yixing City
7. Anqui City Energy & Water Savings Grant
8. Land for LTAR in Anqui Economic Development Zone
9. Land-Use Rights Extension in Yixing City
10. National Government Policy Lending
11. Fund for Optimizing Import and Export Structure of Mechanical Electronics and High and New Technology Products
12. International Market Development Fund Grants for Small and Medium Enterprises
13. Jiangsu Province Energy Conservation and Emissions Reduction Program
14. Rizhao City: Subsidies to Encourage Enterprise Expansion
15. Rizhao City: Subsidy for Antidumping Investigations
16. Rizhao City: Special Fund for Enterprise Development
17. Rizhao City: Technological Innovation Grants
18. Rizhao City: Technology Research and Development Fund
19. Shandong Province: Special Fund for the Establishment of Key Enterprise Technology Centers
20. Shandong Province: Subsidy for Antidumping Investigations
21. Shandong Province: Award Fund for Industrialization of Key Energy-saving

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<sup>181</sup> See, e.g., Coated Paper Decision Memorandum at “Analysis of Programs, Programs Determined Not To Have Been Used or Not To Have Provided Benefits During the POI for GE;” see also *Certain Steel Wheels from the People’s Republic of China: Final Affirmative Countervailing Duty Determination, Final Affirmative Critical Circumstances Determination*, 77 FR 17017 (March 23, 2012) (*Steel Wheels from the PRC*), and accompanying Issues and Decision Memorandum (*Steel Wheels Decision Memorandum*) at “Income Tax Reductions for Firms Located in the Shanghai Pudong New District.”

<sup>182</sup> In this section, we refer to programs preliminarily found to be not used by the RZBC Companies.

## Technology

22. Shandong Province: Environmental Protection Industry R&D Funds
23. Shandong Province: Waste Water Treatment Subsidies
24. Yixing City: Leading Enterprise Program
25. Yixing City: Tai Lake Water Improvement Program
26. Loans Provided to the Northeast Revitalization Program
27. State Key Technology Renovation Project Fund
28. National Level Grants to Loss-making State-Owned Enterprises (SOEs)
29. Income Tax Exemption Program for Export-Oriented FIEs
30. Tax Benefits to FIEs for Certain Reinvestment of Profits
31. Preferential Income Tax Rate for Research and Development for FIEs
32. Preferential Tax Programs for Encouraged Industries
33. Preferential Tax Policies for Township Enterprises
34. Provincial Level Grants to Loss-making SOEs
35. Reduced Income Tax Rates for Encouraged Industries in Anhui Province
36. Provision of Land for Less Than Adequate Remuneration in Anhui Province
37. Funds for Outward Expansion of Industries in Guangdong Province
38. Income Tax Exemption for FIEs Located in Jiangsu Province
39. Administration Fee Exemption in the Yixing Economic Development Zone (YEDZ)
40. Tax Grants, Rebates, and Credits in the YEDZ
41. Provision of Construction Services in the YEDZ for LTAR
42. Grants to FIEs for Projects in the YEDZ
43. Provision of Electricity in the YEDZ for LTAR
44. Provision of Water in the YEDZ for LTAR
45. Provision of Land in the YEDZ for LTAR
46. Provision of Land to SOEs for LTAR
47. Torch Program – Grant
48. Discounted Loans for Export-Oriented Industries
49. Provision of Land in the Zhuqiao Key Open Park for LTAR
50. Special Funds for Energy Saving and Recycling Program
51. Water Resource Reimbursement Program
52. Shandong Province: Energy Saving Award
53. VAT and Import Duty Exemptions on Imported Equipment
54. Ecology Compensation Subsidy Funds
55. Provision of Land for LTAR to Enterprises in Strategic Emerging Industries in Rizhao City
56. Provision of Land for LTAR to Enterprises Located in Development Parks/Zones in the Donggang District
57. Provision of Plants for LTAR to Enterprises in the Science and Technology Incubator of Rizhao High-Tech Industrial Development Zone
58. Fund for Large Technology-Intensive Projects in the Donggang District
59. Strategic Emerging Industries Fund of Shandong Province
60. Tax Refunds for Export-Oriented Trading Companies in the Donggang District
61. Tax Refunds to Large-Scale Trading Companies in the Donggang District
62. Provision of Electricity for LTAR

- 63. Provision of Natural Gas for LTAR
- 64. Provision of Water for LTAR

**CONCLUSION**

We recommend applying the above methodology for these preliminary results.

✓  
Agree

\_\_\_\_\_  
Disagree

Paul Piquado  
Paul Piquado  
Assistant Secretary  
for Import Administration

3 JUNE 2013  
Date