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**MEMORANDUM TO:** Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

**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; 2012

### **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, 2012, through December 31, 2012. 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 CVDs 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, 2013, we published a notice of "Opportunity to Request Administrative Review" of the *CVD Order*.<sup>2</sup>

<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*, 78 FR 25423 (May 1, 2013).



On May 31, 2013, we received a request to conduct an administrative review from Archer Daniels Midland Company, Cargill, Incorporated, and Tate & Lyle Ingredients Americas LLC, domestic producers of the subject merchandise and petitioners in the investigation (collectively, the Petitioners), to conduct an administrative review of the RZBC Companies.<sup>3</sup> RZBC Companies<sup>4</sup> and Laiwu Taihe Biochemistry Co., Ltd.<sup>5</sup> (Laiwu Taihe) also requested a review of themselves. In accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of this administrative review on June 28, 2013, covering the RZBC Companies and Laiwu Taihe.<sup>6</sup>

On July 15, 2013, the Department issued the initial questionnaire to the Government of the PRC (GOC), the RZBC Companies, and Laiwu Taihe.<sup>7</sup> On August 14, 2013, the Department issued the GOC a revised questionnaire with regards to the provision of sulfuric acid and steam coal for less than adequate remuneration.<sup>8</sup> On July 31, 2013, Laiwu Taihe submitted to the Department a withdrawal of review request.<sup>9</sup> We published a notice rescinding the administrative review of Laiwu Taihe on September 5, 2013.<sup>10</sup>

On October 21, 2013, the GOC and the RZBC Companies submitted their initial questionnaire responses for all sections of the initial questionnaire.<sup>11</sup> On October 23, 2013, Petitioners requested the Department conduct a verification of the GOC and RZBC Companies' questionnaire responses.<sup>12</sup> On November 4, 2013, Petitioners filed comments on the GOC's and the RZBC Companies' initial questionnaire responses.<sup>13</sup> On November 12, 2013, Petitioners submitted new subsidies allegations.<sup>14</sup> On November 18, 2013, the GOC submitted comments

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<sup>3</sup> See Letter from King & Spalding to the Department regarding "Request for Administrative Review," dated May 31, 2013. 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 Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS), available to registered users at <http://iaaccess.trade.gov> and also located in Room 7046 of the main Department building.

<sup>4</sup> See Letter from Barnes/Richardson to the Department regarding "Request for Administrative Review" (May 31, 2013).

<sup>5</sup> See Letter from DeKieffer & Horgan to the Department regarding "Request for Annual Administrative Review," dated May 31, 2013.

<sup>6</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 78 FR 38924, 38937 (June 28, 2013).

<sup>7</sup> See the Department's initial questionnaire (IQ) (July 15, 2013).

<sup>8</sup> See the Department's revised input for LTAR questionnaire and input producer appendix (August 14, 2013).

<sup>9</sup> See Letter from DeKieffer & Horgan to the Department regarding "Withdraw Request for Annual Administrative Review," dated July 31, 2013.

<sup>10</sup> See *Citric Acid and Certain Citrate Salts from the People's Republic of China: Notice of Partial Rescission of Countervailing Duty Administrative Review*, 78 FR 54625 (September 5, 2013).

<sup>11</sup> See GOC's initial questionnaire response (GOC IQR) (October 21, 2013) and input supplier appendix response (input response) (October 21, 2013); see also the RZBC Companies' initial questionnaire response (RZBC Companies' IQR) (October 21, 2013).

<sup>12</sup> See Letter from King & Spalding to the Department regarding "Request To Conduct Verification," dated October 23, 2013.

<sup>13</sup> See Letter from King & Spalding to the Department regarding "Comments On 10/21/13 Initial Questionnaire Responses and Submission Of Rebuttal Factual Information," dated November 4, 2013.

<sup>14</sup> See Letter from King & Spalding to the Department regarding "New Subsidy Allegations," dated November 12, 2013.

on Petitioners' new subsidy allegations.<sup>15</sup> The Department initiated a review based on the new subsidy allegations on February 19, 2014, and also issued new subsidy allegation questionnaires to the GOC and RZBC Companies.<sup>16</sup> The Department issued supplemental questionnaires to the GOC on December 27, 2013, February 26, April 3, May 5, and May 19, 2014, and to RZBC on December 27, 2013, and February 26, 2014.<sup>17</sup> On January 13, March 19, and March 31, 2014, the RZBC Companies submitted their responses to the supplemental and new subsidy allegation questionnaires.<sup>18</sup> The GOC submitted its responses to the supplemental and new subsidy allegation questionnaires on January 27, March 19, March 31, April 17, May 20, May 23 and June 2, 2014.<sup>19</sup>

## **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

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<sup>15</sup> See Letter from Grunfeld Desiderio Lebowitz Silverman & Klestadt to the Department regarding "GOC's Comments on Petitioners' New Subsidy Allegations," dated November 18, 2013.

<sup>16</sup> See Memorandum to Melissa G. Skinner, Director, AD/CVD Operations, Office III, through Eric B. Greynolds, Program Manager, AD/CVD Operations, Office III, from Raquel Silva, International Trade Compliance Analyst, AD/CVD Operations, Office III, regarding "Decision Memorandum on New Subsidy Allegations," dated February 19, 2014; see also Letter from the Department to Michael S. Holton, Esq., Barnes Richardson & Colburn, regarding "New Subsidy Allegations Questionnaire for RZBC Co., Ltd., RZBC Import & Export Co., Ltd., RZBC (Juxian) Co., Ltd., and RZBC Group Shareholding Co., Ltd. (collectively, RZBC Companies)," dated February 19, 2014; see also Letter from the Department to Francis J. Sailer, Esq., Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt, regarding "New Subsidy Allegations Questionnaire for the Government of the PRC (GOC)," dated February 19, 2014.

<sup>17</sup> See the Department's first supplemental questionnaire (1SQ) to the GOC (December 27, 2013), 2<sup>nd</sup> supplemental questionnaire (2SQ) to the GOC (February 26, 2014), 3<sup>rd</sup> supplemental questionnaire (3SQ) to the GOC (April 3, 2014), 4<sup>th</sup> supplemental questionnaire (4SQ) to the GOC (May 5, 2014), and 5<sup>th</sup> supplemental questionnaire (5SQ) to the GOC (May 19, 2014); and the Department's 1SQ to the RZBC Companies (December 27, 2013) and 2SQ to RZBC Companies (February 26, 2014).

<sup>18</sup> See the RZBC Companies' first supplemental questionnaire response (1SQR) (January 13, 2014); new subsidy allegation questionnaire response (NSAQR) (March 19, 2014); and 2<sup>nd</sup> supplemental questionnaire response (2SQR) (March 31, 2014).

<sup>19</sup> See the GOC's 1SQR (January 27, 2014), NSAQR (March 19, 2014), 2SQR (March 31, 2014), 3SQR (April 17, 2014), 4SQR (May 20 and May 23, 2014), and 5SQR (June 2, 2014).

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.

### **USE OF FACTS OTHERWISE AVAILABLE AND ADVERSE INFERENCES**

Sections 776(a)(1) and (2) of the Act provide that the Department, subject to section 782(d) of the Act, 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 fails 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>20</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>21</sup>

### **GOC –Market Distorted by Government Presence**

The Department requested the GOC to provide information concerning the sulfuric acid, steam coal, and calcium carbonate industries in the PRC for the POR. Specifically, we requested the GOC provide the following information<sup>22</sup>:

- a. The total number of producers.
- b. The total volume and value of Chinese domestic consumption of {input} and the total volume and value of Chinese domestic production of {input}.
- c. The percentage of domestic consumption accounted for by domestic production.
- d. The total volume and value of imports of {input}.
- e. The total volume and value of domestic production that is accounted for by companies in which the Government maintains an ownership or management interest either directly or through other Government entities.

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<sup>20</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>21</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>22</sup> See the Department’s revised input for LTAR questionnaire and input producer appendix issued to the GOC on August 14, 2013 and supplemental questionnaires issued on December 27, 2013, February 26, 2014, and May 5, 2014.

- f. A discussion of what laws, plans or policies address the pricing of {input}, the levels of production of {input}, the importation or exportation of {input}, or the development of {input} capacity. Please state which, if any, central and sub-central level industrial policies pertain to the {input} industry.

The Department requests such information to determine whether the GOC is the predominant provider of these inputs in the PRC and whether its significant presence in the market distorts all transaction prices. The GOC stated that it does not maintain records on the three industries at issue, rendering the identification of ownership of producers in which the GOC maintains an ownership or management interest either directly or through other government entities extremely difficult.<sup>23</sup> The GOC, with information from the industry association, provided the total volume and value of domestic consumption and production and total volume and value of imports of sulfuric acid and calcium carbonate.<sup>24</sup> The GOC provided estimates of the volume of domestic consumption and the volume and value of imports of steam coal.<sup>25</sup> The Department issued a supplemental questionnaire requesting the GOC to provide the number of input producers in which the Government maintains an ownership or management interest.<sup>26</sup> The GOC, however, failed to provide the requested information.<sup>27</sup> In a previous investigation, the Department was able to confirm at verification that the GOC maintains two databases at the State Administration of Industry and Commerce (SAIC): one is the business registration database, showing the most up-to-date company information; while a second system, “ARCHIVE,” houses electronic copies of documents such as business licenses, annual reports, capital verification reports, *etc.* We preliminarily find that the GOC has an electronic system available to it to gather industry specific information the Department requested.<sup>28</sup>

Therefore, we preliminarily determine that the GOC withheld necessary information that was requested of it and, thus, that the Department must rely on “facts available” in making our preliminary determination.<sup>29</sup> Moreover, we preliminarily determine that the GOC 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>30</sup> In drawing an adverse inference, we preliminarily find that PRC prices from actual transactions involving Chinese buyers and sellers are significantly distorted by the involvement of the GOC.<sup>31</sup> Therefore we preliminarily find that the use of an external benchmark is warranted for calculating the benefit for the provision of sulfuric acid, steam coal, and calcium carbonate for LTAR.

For details regarding the remaining elements of our analysis, see the “Provision of Sulfuric Acid, Steam Coal, and Calcium Carbonate for LTAR” section below.

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<sup>23</sup> See GOC’s input response at 7 and 17; 2SQR at 14.

<sup>24</sup> See GOC’s input response at 6-7; 2SQR at 13-14.

<sup>25</sup> See GOC’s input response at 16.

<sup>26</sup> See the Department’s 2SQ at 5 – 7 and 4SQ at 4.

<sup>27</sup> See the GOC’s 2SQR and 4SQR at 3.

<sup>28</sup> See Memorandum to the File from Patricia M. Tran, “Additional Documents for the Preliminary Results,” dated concurrently with this Decision Memorandum (Additional Documents for Prelim Memorandum) at Attachment II.

<sup>29</sup> See section 776(a)(2)(A) of the Act.

<sup>30</sup> See section 776(b) of the Act.

<sup>31</sup> See *Preamble to Countervailing Duty Regulations*, 63 FR 65348, 65377 (November 25, 1998) (*Preamble*).

## GOC –Other Subsidies

The financial statements submitted by the RZBC Companies indicate 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>32</sup>

The Department normally relies on information from the government to assess program specificity; however, the GOC did not submit such information nor provide an explanation why it was unable to obtain the information.<sup>33</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>34</sup> Moreover, we preliminarily find that the GOC 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>35</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>36</sup>

## **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 rounded the 9.5 years up to 10 years for purposes of setting the AUL.<sup>37</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-

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<sup>32</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>33</sup> See GOC's IQR at 10, 13, 19, 20, 22, and 30; and 2SQR at 5 -6.

<sup>34</sup> See section 776(a)(2)(A) of the Act.

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

<sup>36</sup> See section 771(5A) of the Act.

<sup>37</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 (February 11, 2008).

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) 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>38</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>39</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 history and affiliations prior to the POR, but after December 11, 2001.<sup>40</sup> RZBC Co. reported that the company "Sisha" was a prior owner.<sup>41</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>42</sup> The Department found that Sisha received a countervailable, allocable subsidy in 2003.<sup>43</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 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.

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<sup>38</sup> See *Fabrique de Fer de Charleroi v. United States*, 166 F. Supp. 2d 593, 600-604 (CIT 2001).

<sup>39</sup> See RZBC Companies' IQR at "RZBC Group" page III - 4.

<sup>40</sup> The PRC ascended and became a member of the World Trade Organization on December 11, 2001.

<sup>41</sup> See RZBC Companies' IQR at "RZBC Co. Ltd." page III - 6.

<sup>42</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 (IDM) at "Attribution of Subsidies - RZBC." All subsidies received by HTI that the Department found to be countervailable were expensed. See *Citric Acid First Review*, and accompanying IDM at "Shandong Province Financial Special Fund for Supporting High and New Technology Industry Development Project." See *Citric Acid First Review*, and accompanying IDM at "Attribution of Subsidies - RZBC."

<sup>43</sup> See *Citric Acid First Review*, and accompanying IDM at "Enterprise Development Fund from Zibo City Financial Bureau."

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>44</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, 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>45</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 removed the sales of these products from RZBC IE's 2012 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>46</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 2012. 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 2012. Lastly, to attribute an export subsidy received by a company, we used as the denominator the 2012 export sales of RZBC IE, exclusive of sales of merchandise produced by unaffiliated companies.

## **BENCHMARKS AND DISCOUNT RATES**

The Department is examining 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>47</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

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<sup>44</sup> See RZBC Companies' IQR at "RZBC IE" page III - 7.

<sup>45</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 IDM at "Attribution."

<sup>46</sup> See *Citric Acid First Review*, and accompanying IDM at "Attribution of Subsidies - RZBC."

<sup>47</sup> See 19 CFR 351.505(a)(3)(i).

comparable commercial loans.”<sup>48</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>49</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>50</sup>

We first developed in *CFS from the PRC*<sup>51</sup> and more recently updated in *Thermal Paper from the PRC*,<sup>52</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 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>53</sup> Beginning with 2010, however, the PRC is in the upper-middle income category.<sup>54</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 - 2012. 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 2011-2012, the results of the regression-based analysis reflected the intended, common sense result: stronger institutions meant relatively lower real

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<sup>48</sup> See 19 CFR 351.505(a)(3)(ii).

<sup>49</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 IDM at Comment 10; see also Memorandum to the File from Patricia Tran, International Trade Compliance Analyst, AD/CVD Operations, Office III, regarding “Placement of Banking Memoranda on Record of the Instant Review” (June 18, 2014) (Banking Memoranda).

<sup>50</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 IDM at “Analysis of Programs, Provincial Stumpage Programs Determined to Confer Subsidies, Benefit.”

<sup>51</sup> See *CFS from the PRC*, and accompanying IDM at Comment 10.

<sup>52</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 IDM at 8-10.

<sup>53</sup> See Memorandum to the File from Patricia Tran, International Trade Compliance Analyst, AD/CVD Operations, Office III, regarding “Interest Rate Benchmark Memorandum (2001 – 2012)” (Interest Rate Benchmark Memorandum) (June 18, 2014).

<sup>54</sup> *Id.*

interest rates, while weaker institutions meant relatively higher real interest rates. For 2010, however, the regression does not yield that outcome for the PRC's income group.<sup>55</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. Therefore, we continue to rely on the regression-based analysis used since *CFS from the PRC* to compute the benchmarks for the years from 2001-2009, and 2011-2012. 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 used the interest and inflation rates reported in the IFS for the countries identified as "upper middle income" by the World Bank for 2010 - 2012, 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>56</sup> Finally, for each year the Department calculated an inflation-adjusted short-term benchmark rate, we also excluded any countries with aberrational or negative real interest rates for the year in question.<sup>57</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 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>58</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>59</sup>

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<sup>55</sup> See Interest Rate Benchmark Memorandum.

<sup>56</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.

<sup>57</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>58</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), and accompanying IDM at 8.

<sup>59</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 IDM at Comment 14.

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>60</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 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 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 Interest Rate Benchmark Memorandum.

## ANALYSIS OF PROGRAMS

### I. Programs Preliminarily Determined To Be Countervailable

#### A. Shandong Province Policy Loans Program

In the *Citric Acid Third Review*, the Department found that the *Shandong Province Development Plan of Chemical Industry during “Twelfth Five-Year Plan” Period (12<sup>th</sup> Five-Year Plan)* identifies objectives and goals, in conjunction with the Government of Shandong’s past and present policies, for the development of the citric acid industry and calls for lending to support these objectives and goals.<sup>61</sup> Moreover, loan documents, reviewed by the Department in the first administrative review, stated that because the food-use citric acid industry “has

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<sup>60</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 IDM 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 IDM at “Benchmark and Discount Rates.”

<sup>61</sup> See *Citric Acid and Certain Citrate Salts From the People’s Republic of China: Final Results of Countervailing Duty Administrative Review: 2011*, 79 FR 108 (January 2, 2014) (*Citric Acid Third Review*), and accompanying IDM at Comment 7.

characteristics of capital and technology concentration and belongs to high and new technology ... the State always takes positive policy to encourage its development.”<sup>62</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>63</sup>

As the Department explained in Comment 7 of *Citric Acid Third Review*, the 12<sup>th</sup> *Five-Year Plan* outlines provisions to transform and “upgrade traditional industries” and “accelerate the development of strategic emerging industries” by making “full use of the relevant policies introduced by the national {and} provincial {governments}.”<sup>64</sup> Provincial policies directed to “accelerate” the development of strategic emerging industries are contained in the *Shandong Province Implementation Plan* and *State Council Decision on Strategic Emerging Industries*.<sup>65</sup> The GOC provided the *Shandong Province Implementation Plan* which included a list of the “First Batch of Provincial-Level Strategic Emerging Industry Projects of Shandong Province” naming RZBC Group as part of a project of industrialization and application of citric acid biological conversion technology.<sup>66</sup> The *Shandong Province Implementation Plan* “guide{s} financial institutions to increase the credit support for strategic emerging industries. Guide commercial banks to adjust and optimize the credit loan structure...Actively obtain the support of policy banks, and encourage policy credit loans to favor strateg{ic} emerging industries.”<sup>67</sup> Similarly, the *State Council Decision on Strategic Emerging Industries* seeks “to speed up the cultivation and development of strategic emerging industries, . . .improve...{the} financial policy support system” by “encourage{ing} financial institutions to increase the credit loan support. Guide financial institutions to set up a credit loan management and loan evaluation system that fits the characteristics of strateg{ic} emerging industries. Actively promote the innovation of financial products.”<sup>68</sup>

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 and present policies to develop the citric acid industry.

Further, consistent with the underlying investigation, *Citric Acid First Review*, *Citric Acid Second Review*, and *Citric Acid Third 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

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<sup>62</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>63</sup> See GOC’s IQR at 2-5.

<sup>64</sup> *Id.*, at Exhibit 1 and Additional Documents for Prelim Memorandum at Attachment I.

<sup>65</sup> See GOC’s 2SQR at Exhibit 2 “*Decision of the State Council on Accelerating the Cultivation and Development of Strategic Emerging Industries* (Guo Fa (2010) No. 32) (*State Council Decision on Strategic Emerging Industries*);” and GOC’s 4SQR (May 20, 2014) at Exhibit 4 “*Implementation Opinions of the People’s Government of Shandong Province on Accelerating the Cultivation and Development of Strategic Emerging Industries* (Lu Zheng Fa (2011) No. 15), May 3, 2011 (*Shandong Province Implementation Plan*).”

<sup>66</sup> See GOC’s 4SQR at Exhibit 4.

<sup>67</sup> See GOC’s 2SQR at Exhibit 2.

<sup>68</sup> *Id.*

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.<sup>69</sup> 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>70</sup> In conducting this comparison, we used the interest rates described in the “Benchmarks and Discount Rates” section above. We 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 0.25 percent *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.<sup>71</sup> In the underlying investigation, *Citric Acid First Review*, *Citric Acid Second Review*, and *Citric Acid Third Review* the Department found that loans under this program conferred a countervailable subsidy.<sup>72</sup>

On the record of the instant review, the GOC reported that there were no changes to the program during the POR.<sup>73</sup> Therefore, consistent with the *Citric Acid Investigation*, *Citric Acid First Review*, *Citric Acid Second Review*, and *Citric Acid Third 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>74</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 0.64 percent *ad valorem*.

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<sup>69</sup> See RZBC Companies’ IQR at “RZBC Co.” Exhibit 10, “RZBC Juxian” Exhibit 8, and “RZBC IE” Exhibit 7.

<sup>70</sup> See 19 CFR 351.505(a).

<sup>71</sup> See RZBC Companies’ IQR at “RZBC IE” Exhibit 7.

<sup>72</sup> See *Citric Acid Investigation*, and accompanying IDM at “Policy Lending;” and *Citric Acid First Review*, *Citric Acid Second Review*, and *Citric Acid Third Review*, and accompanying IDMs at “Export Seller’s Credit for High- and New-Technology Products.”

<sup>73</sup> See GOC’s IQR at 5.

<sup>74</sup> See 19 CFR 351.505(a).

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

In the *Citric Acid First Review*, *Citric Acid Second Review*, and *Citric Acid Third Review* the Department found this program to be countervailable.<sup>75</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>76</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>77</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>78</sup>

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>79</sup>

On the record of the instant review, the GOC reported that there were no changes to this program during the POR.<sup>80</sup> RZBC Co. and RZBC Juxian reported that they received tax savings under this program on their 2011 income tax returns filed during the POR.<sup>81</sup>

Consistent with the *Citric Acid First Review*, *Citric Acid Second Review*, and *Citric Acid Third 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>82</sup> We also preliminarily find, consistent with the *Citric Acid First Review*, *Citric Acid Second Review*, and *Citric Acid Third 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

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<sup>75</sup> See *Citric Acid First Review*, *Citric Acid Second Review*, and *Citric Acid Third Review*, and accompanying IDMs at "Reduced Income Tax Rate for High or New Technology Enterprises."

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

<sup>77</sup> *Id.*

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

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

<sup>80</sup> See GOC's IQR at 7.

<sup>81</sup> See RZBC Companies' IQR at "RZBC Co." at pages III-16, III-40 through III-41 and Exhibit 5 and 24; and at "RZBC Juxian" at pages III-14, III-52 through III-53 and Exhibit 4.

<sup>82</sup> See section 771(5)(D)(ii) of the Act and 19 CFR 351.509(a)(1).

companies actually paid.<sup>83</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 1.47 percent *ad valorem*.

D. 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*, *Citric Acid Second Review*, and *Citric Acid Third Review* the Department found that this program provides countervailable subsidies.<sup>84</sup>

In its October 21, 2013, input response 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>85</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.

Four producers provided sulfuric acid to RZBC Companies during the POR. We preliminarily determine that three producers are located in Korea and Japan, and therefore are not relevant to our analysis.<sup>86</sup> The GOC reported that the chairman of the board of the fourth producer (hereinafter referred to as Company A) is a member of the People's Congress of Shandong and a member of the People's Congress of Yantai City.<sup>87</sup> The GOC reported that Company A also has a CCP primary organization.<sup>88</sup> The Department requested the GOC to confirm the chairman's positions with official documentation. The GOC provided the representative lists of the People's Congress of Shandong Province and the People's Congress of Yantai City.<sup>89</sup>

We explained in the Public Bodies Memorandum and the CCP Memorandum that "available information and record evidence indicates that the CCP meets the definition of the

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<sup>83</sup> See RZBC Companies' IQR at "RZBC Co." at Exhibit 5 and at "RZBC Juxian" at Exhibit 4.

<sup>84</sup> See *Citric Acid First Review*, *Citric Acid Second Review*, and *Citric Acid Third Review*, and accompanying IDMs at "Provision of Sulfuric Acid for LTAR."

<sup>85</sup> See GOC's input response at 5.

<sup>86</sup> See RZBC Companies' IQR at "RZBC Co." Exhibit 11 and "RZBC Juxian" Exhibit 12.

<sup>87</sup> See GOC's input response at 29.

<sup>88</sup> *Id.*, at 25-26.

<sup>89</sup> See GOC's 5SQR at 3 and Exhibit 3.

term ‘government’ for the limited purpose of applying the U.S. CVD law to China.”<sup>90</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>91</sup> The GOC has not provided information that would alter our understanding of the CCP organizations nor has the GOC substantiated its claims, either in the laws that it provided or with expert, third-party sources, that CCP organizations and the businesses in which they operate are on “parallel” tracks that never affect each other.<sup>92</sup> Therefore, because Company A has a CCP primary organization, we preliminarily determine that Company A is an “authority” capable of providing a financial contribution.<sup>93</sup>

As discussed under “Use of Facts Otherwise Available and Adverse Inferences,” above we are relying on AFA to preliminarily determine that actual transaction prices for sulfuric acid in the PRC are significantly distorted by the government’s involvement in the market. As such, we preliminarily determine that domestic prices in the PRC cannot serve as viable, tier one benchmark prices. For the same reasons, we determine that import prices into the PRC cannot serve as a benchmark.<sup>94</sup> 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 monthly world prices for sulfuric acid from Argentina, Azerbaijan, Belgium, Chile, Colombia, Costa Rica, Cote d’Ivoire, Croatia, Denmark, Egypt, El Salvador, Estonia, Germany, Greece, Guatemala, Hong Kong, Hungary, Indonesia, Iran, Ireland, Kazakhstan, Kenya, Latvia, Lithuania, Luxembourg, Malaysia, Mauritius, Mexico, Morocco, Netherlands, Peru, Portugal, Russia, Senegal, Singapore, Slovakia, Slovenia, South Africa, Sri Lanka, Switzerland, Taiwan, Thailand, Turkey, Ukraine, United Kingdom, United States, and Uruguay for the year 2012, taken from trade statistics from Global Trade Atlas (GTA).<sup>95</sup>

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<sup>90</sup> See Additional Documents for Prelim Memorandum at Attachment III, 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); and CCP Memorandum at 33.

<sup>91</sup> *Id.*, at Public Body Memorandum at 35-36 and sources cited therein.

<sup>92</sup> See GOC’s input response.

<sup>93</sup> See section 771(5)(D)(iii) of the Act.

<sup>94</sup> See *Citric Acid First Review*, *Citric Acid Second Review*, and *Citric Acid Third Review*, and accompanying IDMs at “Provision of Sulfuric Acid for LTAR.”

<sup>95</sup> See Petitioners’ Submission of Factual Information (April 21, 2014) (Petitioners’ Factual Information) at Exhibit 11.

Petitioners also submitted monthly world prices for sulfuric acid from the United States and Europe for the year 2012, sourced from ICIS, a petrochemical trade publication.<sup>96</sup>

RZBC Companies submitted prices for sulfuric acid from Brazil, Chile, Japan, Northwest Europe, South Korea, Turkey, Tunisia, and the U.S. Gulf region sourced from CRU Group for the year 2012.<sup>97</sup> We also used GTA export data that RZBC Companies put on the record for sulfuric acid from Algeria, Argentina, Australia, Azerbaijan, Belarus, Belgium, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, Cote d'Ivoire, Croatia, Czech Republic, Denmark, Egypt, El Salvadore, Estonia, France, Germany, Greece, Guatemala, Hong Kong, Hungary, India, Indonesia, Iran, Ireland, Italy, Japan, Kazakhstan, Kenya, Latvia, Lithuania, Luxembourg, Malaysia, Mauritius, Mexico, Morocco, Netherlands, New Zealand, Peru, Philippines, Poland, Portugal, Russia, Senegal, Serbia, Singapore, Slovakia, Slovenia, South Africa, South Korea, Spain, Sri Lanka, Sweden, Switzerland, Taiwan, Thailand, Turkey, Ukraine, United Kingdom, United States, and Uruguay covering the POR.

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 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, Rotterdam, New Delhi, and Buenos Aires to Shanghai, sourced from Maersk, originally submitted by Petitioners.<sup>98</sup> We also added inland freight from the port to the factory based on the RZBC Companies' sulfuric acid purchase information,<sup>99</sup> import duties as reported by the GOC, and the VAT applicable to imports of sulfuric acid into the PRC.<sup>100</sup> Both RZBC Co. and RZBC Juxian reported the prices that they paid for sulfuric acid inclusive of inland freight and VAT.<sup>101</sup>

To derive the benchmark, 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>102</sup>

Comparing the adjusted benchmark prices to the prices paid by 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

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<sup>96</sup> *Id.* at Exhibit 10.

<sup>97</sup> See RZBC Companies' Submission of Factual Information (April 21, 2014) (RZBC Companies' Factual Information) at Exhibit 6.

<sup>98</sup> See letter from King & Spalding to the Department regarding "Submission of Rebuttal Freight Rates," dated May 1, 2014, at Exhibit 1.

<sup>99</sup> See RZBC Companies' IQR at "RZBC Co." at Exhibit 12 and "RZBC Juxian" at Exhibit 10.

<sup>100</sup> For import duties and VAT, see GOC's input response at 8.

<sup>101</sup> See RZBC Companies' IQR at "RZBC Co." at Exhibit 11 and at "RZBC Juxian" Exhibit 9.

<sup>102</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 IDM at Comment 13.

and what the respondents paid.<sup>103</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 2.37 percent *ad valorem* during the POR.

#### E. 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* and *Citric Acid Third Review*, the Department found that this program provides countervailable subsidies.<sup>104</sup>

In its October 21, 2013, input response 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>105</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 during the POR the RZBC Companies purchased steam coal from enterprises in which the government owned a majority stake.<sup>106</sup> As explained in the Public Body Memorandum, majority state-owned enterprises in the PRC possess, exercise, or are vested with governmental authority.<sup>107</sup> The GOC exercises meaningful control over these entities and uses them to effectuate its goals of upholding the socialist market economy, allocating resources, and maintaining the predominant role of the state sector. Therefore, we preliminarily determine that these entities are “authorities” within the meaning of section 771(5)(B) of the Act and that the RZBC Companies received a financial contribution from them in the form of the provision of a good, pursuant to section 771(5)(D)(iii) of the Act.

As discussed under “Use of Facts Otherwise Available and Adverse Inferences,” above we are relying on AFA to preliminarily determine that actual transaction prices for steam coal in the PRC are significantly distorted by 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>108</sup>

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* and *Citric Acid Third 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 world prices for 2012 for various types of coal from Australia, Colombia, Japan, Korea, Poland, and Russia as reported in the Platts International

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<sup>103</sup> See 19 CFR 351.511(a).

<sup>104</sup> See *Citric Acid Second Review* and *Citric Acid Third Review*, accompanying IDMs at “Provision of Steam Coal for LTAR.”

<sup>105</sup> See GOC’s input response at 15.

<sup>106</sup> *Id.*, at 37.

<sup>107</sup> See Additional Documents Prelim Memorandum at Attachment III: Public Body Memorandum at 35-36 and sources cited therein.

<sup>108</sup> See *Citric Acid Second Review* and *Citric Acid Third Review*, and accompanying IDMs at “Provision of Steam Coal for LTAR.”

Coal Report.<sup>109</sup> Petitioners further placed on the record steam coal (*i.e.*, “thermal coal”) world price indices, as reported by the IMF, for Australia, from 2012.<sup>110</sup> Lastly, from GTA, Petitioners submitted world market prices for anthracite coal<sup>111</sup>, covering 2012, from Algeria, Argentina, Australia, Austria, Belarus, Belgium, Bulgaria, Canada, Chile, Colombia, Croatia, Czech Republic, Denmark, Egypt, Finland, France, Germany, Greece, Guatemala, Hungary, India, Italy, Latvia, Lithuania, Malaysia, Mexico, Netherlands, New Zealand, Peru, Poland, Portugal, Russia, Serbia, Singapore, Slovakia, Slovenia, South Africa, South Korea, Spain, Sweden, Switzerland, Taiwan, Thailand, Turkey, United Kingdom, and the United States.<sup>112</sup> RZBC Companies submitted monthly export and import values for HTS 270.1.12 (covering steam coal) for 2010 through 2012 from Global Trade Atlas, covering numerous countries.<sup>113</sup> RZBC Companies also put on the record monthly Indonesia steam coal price indices for 2012, sourced from coalspot.com.<sup>114</sup> In its questionnaire response, RZBC Companies indicated that it purchased bituminous coal in the production of citric acid<sup>115</sup>; therefore, we will utilize coal prices representative of the steam coal (*i.e.*, thermal coal) purchased by RZBC Companies.<sup>116</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 (Australia (Newcastle and Gladstone), Colombia (Bolívar), Poland (Gdansk), and Russia (St. Petersburg)) to Qingdao, PRC.<sup>117</sup> RZBC Companies placed on the record ocean freight pricing data from Platts International Coal Report and Searates (for distance data), for the POR, pertaining to shipments of steam coal from Australia, Canada, Colombia, Iran, Indonesia, Malaysia, Mexico, Netherlands, Peru, Russia, South Africa, South Korea, Turkey, and the United States to Shanghai, PRC.<sup>118</sup> We averaged the international freight rates to derive the amount included in our benchmark.

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>119</sup> Additionally, to derive the benchmark, we included import duties

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<sup>109</sup> See Petitioners’ Factual Information at Exhibit 12.

<sup>110</sup> *Id.*, at Exhibit 13.

<sup>111</sup> Anthracite coal is listed as HTS 270.1.11.

<sup>112</sup> See Petitioners’ Factual Information at Exhibit 14.

<sup>113</sup> See RZBC Companies’ Factual Information at Exhibits 3 and 4. Where we could, we extracted from the pricing data export prices to the PRC. If we could not extract export prices to the PRC, then we excluded the price from the average monthly benchmark price.

<sup>114</sup> *Id.* at Exhibit 2.

<sup>115</sup> See RZBC Companies’ 2SQR at Exhibit 7.

<sup>116</sup> For further information, see Preliminary Results Calculation Memorandum.

<sup>117</sup> See Petitioner’s Factual Information at Exhibits 17 and 18.

<sup>118</sup> See RZBC Companies’ Factual Information at Exhibit 21.

<sup>119</sup> See RZBC Companies’ IQR at “RZBC Co.” at page III-22.

and the VAT applicable to imports of steam coal into the PRC as reported by the GOC.<sup>120</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>121</sup>

Comparing the adjusted benchmark prices to the prices paid by RZBC Co. 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>122</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 1.35 percent *ad valorem* during the POR.

#### F. Provision of Calcium Carbonate for LTAR

The Department is examining whether the RZBC Companies purchased calcium carbonate for LTAR during the POR. In the *Citric Acid Third Review*, the Department found that this program provides countervailable subsidies.<sup>123</sup>

In its January 27, 2014, 1SQR 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>124</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.

Four domestic producers provide calcium carbonate to RZBC Companies. The owner of two of the producers (hereinafter referred to as Companies B and C) was the Secretary of a CCP Committee of a village in the PRC. The GOC provided a certified letter from the CCP Committee of the village indicating that the owner of Companies B and C held the position of Secretary from June 2009 to December 2011, but claimed the role did not impact the management and operations of the two companies.<sup>125</sup> The third calcium carbonate producer (hereinafter referred to as Company D) has a CCP primary organization.<sup>126</sup> The GOC claims that the fourth calcium carbonate producer (hereinafter referred to as Company E) does not have a CCP primary organization and that no officials of the Government or the CCP held positions or ownership stakes in the company.<sup>127</sup>

Regarding Companies B and C, we preliminarily determine that the two input producers are not “authorities” within the meaning of section 771(5)(B) of the Act. While the owner of these two enterprises was reported to be the Secretary for the Party Committee of a village in the PRC, the GOC provided a certified letter from the Party Committee stating the individual’s dates

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<sup>120</sup> See GOC’s input response at 18.

<sup>121</sup> See, e.g., *PC Strand from the PRC*, and accompanying IDM at Comment 13.

<sup>122</sup> See 19 CFR 351.511(a).

<sup>123</sup> See *Citric Acid Third Review*, and accompanying IDM at “Provision of Calcium Carbonate for LTAR.”

<sup>124</sup> See GOC’s 1SQR at 1.

<sup>125</sup> *Id.*, at Exhibit I-6.

<sup>126</sup> *Id.* at 28.

<sup>127</sup> *Id.* at 37 and 39.

of service in this role.<sup>128</sup> Because the dates of service ended prior to the POR and the village does not geographically overlap with the locations of the producers' operations, we preliminarily determine that the GOC did not exercise meaningful control over these input producers through this individual during the POR. Concerning Company D, as noted above, we preliminarily determine that the presence of a CCP primary organization at a company constitutes evidence that the producer is an "authority."<sup>129</sup> Regarding Company E, the GOC claims, based on information from Company E itself, that the company was not majority-owned by the government during the POR, and that no officials of the Government or the CCP held positions or ownership stakes in the company. We intend to follow up with the GOC regarding these claims after these preliminary results. Therefore, we will determine whether Company E is an "authority" in a post-preliminary analysis.

As discussed under "Use of Facts Otherwise Available and Adverse Inferences," above we are relying on AFA to preliminarily determine that actual transaction prices for calcium carbonate in the PRC are significantly distorted by the government's involvement in the market. As such, we preliminarily determine 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>130</sup> No new evidence has been presented in this review that would call into question that finding. Accordingly, to determine whether the provision of calcium carbonate conferred a benefit within the meaning of section 771(5)(E)(iv) of the Act, consistent with the *Citric Acid Third 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)).

We received calcium carbonate and limestone flux<sup>131</sup> benchmark pricing data from Petitioners and RZBC Companies.<sup>132</sup> In its questionnaire response, RZBC Companies indicated that they purchased limestone flux in the production of citric acid;<sup>133</sup> therefore, we will utilize the limestone flux and ground calcium carbonate benchmark pricing data to apply a more accurate benchmark price corresponding to the company's domestic purchases.<sup>134</sup> Petitioners and RZBC Companies submitted monthly limestone flux prices for the POR, reported by GTA

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<sup>128</sup> *Id.*, at Exhibit I-6.

<sup>129</sup> *See* Additional Documents for Prelim Memorandum at Attachment III: Public Body Memorandum at 35-36 and sources cited therein.

<sup>130</sup> *See Citric Acid Third Review*, and accompanying IDM at "Provision of Calcium Carbonate for LTAR."

<sup>131</sup> *Id.*, and accompanying IDM at Comment 11 and 12. We found that precipitated calcium carbonate (PCC) and ground calcium carbonate (GCC), *i.e.*, limestone flux, are different grades of the same input, calcium carbonate.

<sup>132</sup> *See* RZBC Companies' Factual Information at Exhibit 10 – 12 and 23; *see also* Petitioners' Factual Information at Exhibit 1 - 4.

<sup>133</sup> *See* RZBC Companies' ISQR at 1 and Exhibit 1- 2.

<sup>134</sup> *See 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 IDM at Comment 15; *see also Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Final Affirmative Countervailing Duty Determination*, 74 FR 4936 (January 28, 2009), and accompanying IDM at "Provision of SSC for LTAR" (where the Department compared prices by steel grade); *Certain Hot-Rolled Carbon Steel Flat Products from India: Final Results of Countervailing Duty Administrative Review*, 73 FR 40295 (July 14, 2008), and accompanying IDM at "Sale of High-Grade Iron Ore for LTAR" (where the Department conducted the benefit analysis on a lump-to-lump and fine-to-fine basis); and *Notice of Final Results of Countervailing Duty Administrative Review: Certain Softwood Lumber Products from Canada*, 70 FR 73448 (December 12, 2005), and accompanying IDM at "Calculation of Provincial Benefit" and "Methodology for Adjusting the Unit Prices of the Crown Stumpage Program Administered by the GOBC" (where the Department computed species-specific benefits).

for numerous countries.<sup>135</sup> In addition, Petitioners submitted monthly ground calcium carbonate prices for the POR, from Metal Bulletin for the United States and the United Kingdom.<sup>136</sup> 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, 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 and RZBC Companies placed on the record ocean freight pricing data from Maersk and Searates, for the POR, pertaining to shipments of calcium carbonate from various world ports to Shanghai, PRC.<sup>137</sup> We averaged the international freight rates to derive the amount included in our benchmark.

RZBC Companies purchased calcium carbonate from domestic sources; therefore, for RZBC Co.'s inland freight, we relied on RZBC Companies' reported inland freight expense to transport citric acid from its plant to the port.<sup>138</sup> We also added inland freight in the PRC based on RZBC Juxian's calcium carbonate purchase information.<sup>139</sup>

Additionally, to derive the benchmark, we included import duties and the VAT applicable to imports of calcium carbonate into the PRC as reported by the GOC.<sup>140</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>141</sup>

Comparing the adjusted benchmark prices to the prices paid by RZBC Co. and RZBC Juxian for calcium carbonate during the POR, we preliminarily find that the GOC provided calcium carbonate 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. To calculate the benefit, we calculated the difference between the delivered world market price and the price that the companies paid for calcium carbonate, 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 4.21 percent *ad valorem* during the POR.

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<sup>135</sup> For more information on this topic, *see* Preliminary Calculation Memorandum.

<sup>136</sup> *See* Petitioners' Factual Information at Exhibits 1 – 2; and RZBC Companies' Factual Information at Exhibit 10.

<sup>137</sup> *See* Petitioners' Factual Information at Exhibit 3 – 4; and RZBC Companies' Factual Information at Exhibit 23.

<sup>138</sup> *See* RZBC Companies' 1SQR at 3-4.

<sup>139</sup> *Id.*, at Exhibit 3.

<sup>140</sup> *See* GOC's 2SQR at 16.

<sup>141</sup> *See, e.g., PC Strand from the PRC*, and accompanying IDM at Comment 13.

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

In *Citric Acid Third Review*, the Department found that RZBC Companies received a countervailable subsidy under this program in 2010 and 2011.<sup>142</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 indicated 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.<sup>143</sup>

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 1.31 percent *ad valorem* for the RZBC Companies.

H. 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>144</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>145</sup> We found that the 2003 grant was greater than 0.5 percent of the reported consolidated sales for 2003.<sup>146</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>147</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 2012 to obtain the *ad valorem* subsidy rate. On this basis, we preliminary find that the RZBC Companies received a countervailable subsidy of 0.05 percent *ad valorem*.

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<sup>142</sup> See *Citric Acid Third Review*, and accompanying IDM at “Provision of Land for LTAR to Enterprises in Strategic Emerging Industries in Shandong Province.”

<sup>143</sup> *Id.*

<sup>144</sup> See *Citric Acid First Review*, *Citric Acid Second Review*, and *Citric Acid Third Review*, and accompanying IDMs at “Enterprise Development Fund from Zibo City Financial Bureau.”

<sup>145</sup> *Id.*

<sup>146</sup> *Id.*

<sup>147</sup> *Id.*

I. Application Technology Research and Development Fund

RZBC Co. reported that it received grants from Rizhao City during the POR because it engaged in research and development projects related to applied technology.<sup>148</sup> The company had to apply for the fund.<sup>149</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 applied technology 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*.

J. Economic Task Special Contribution Award

RZBC Juxian reported that it received a grant from the township government during the POR because the company made an economic contribution in the form of tax payments.<sup>150</sup> The company did not have to apply for the grant.<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. 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.<sup>152</sup>

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*.

K. Rizhao City: Special Fund for Enterprise Development

RZBC Juxian reported that it received a grant from Rizhao City during the POR because it qualified based on its status as a technologically innovative and strategic emerging industry.<sup>153</sup> The company had to apply for this grant.<sup>154</sup>

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<sup>148</sup> See RZBC Companies’ IQR at “RZBC Co.” page III-17, III-37 through III-39, and Exhibits 21, 22, and 23.

<sup>149</sup> *Id.* at page III-37.

<sup>150</sup> *Id.* at “RZBC Juxian” page III-16, III-49 through III-51, and Exhibits 27 and 28.

<sup>151</sup> *Id.* at page III-49.

<sup>152</sup> See GOC’s IQR at 21-22; and 2SQR at 5.

<sup>153</sup> *Id.* at “RZBC Juxian” page III-46 through III-48, and Exhibits 24, 25, and 26.

<sup>154</sup> *Id.* at page III-46.

We preliminarily determine that the grant received by RZBC Juxian constitutes a financial contribution and 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 that was requested of it on two occasions regarding the details of the government assistance.<sup>155</sup>

The grant that RZBC Juxian 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 2011. 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*.

## II. Program For Which More Information is Required

### A. Provision of Caustic Soda for LTAR

According to RZBC Companies’ March 19, 2014, NSA QR, RZBC Co. and RZBC Juxian purchased caustic soda during the POR.<sup>156</sup> The Department requires additional information that would allow us to analyze whether this program is countervailable. We will address whether this program is countervailable in a post-preliminary analysis.

## III. Programs Preliminarily Determined Not To Provide Measurable 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 14 grants from various governmental entities. RZBC Companies reported that RZBC Group received 3 grants in 2011 and 2012; RZBC Co. received 3 grants in 2011 and 2012; and RZBC Juxian received 8 grants in 2011 and 2012. 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 preliminarily have not included these programs in our net countervailing duty rate calculations.<sup>157</sup>

- A. Rizhao City: Patent Development Special Fund
- B. Shandong Province: Patent Development Special Fund
- C. Subsidy for Providing Employment Internship Base
- D. Subsidy for Shandong Province Science and Technology Award
- E. Cleaning Production Inspection Expense Reimbursement
- F. Award for Work Safety Demonstrative Enterprises of Juxian County
- G. Enterprise Technology Improvement Award

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<sup>155</sup> See GOC’s IQR at 9 -11; and 2SQR at 5.

<sup>156</sup> See RZBC Companies’ NSAQR (March 19, 2014) at 7.

<sup>157</sup> See, e.g., *CFS from the PRC*, and accompanying IDM at “Analysis of Programs, Programs Determined Not To Have Been Used or Not To Have Provided Benefits During the POI for GE;” see also *Steel Wheels from the PRC*, and accompanying IDM at “Income Tax Reductions for Firms Located in the Shanghai Pudong New District.”

#### IV. Programs Preliminarily Determined Not to be Used<sup>158</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: Technological Innovation Grants
17. Rizhao City: Technology Research and Development Fund
18. Shandong Province: Special Fund for the Establishment of Key Enterprise Technology Centers
19. Shandong Province: Subsidy for Antidumping Investigations
20. Shandong Province: Award Fund for Industrialization of Key Energy-saving Technology
21. Shandong Province: Environmental Protection Industry R&D Funds
22. Shandong Province: Waste Water Treatment Subsidies
23. Yixing City: Leading Enterprise Program
24. Yixing City: Tai Lake Water Improvement Program
25. Loans Provided to the Northeast Revitalization Program
26. State Key Technology Renovation Project Fund
27. National Level Grants to Loss-making State-Owned Enterprises (SOEs)
28. Income Tax Exemption Program for Export-Oriented FIEs
29. Tax Benefits to FIEs for Certain Reinvestment of Profits
30. Preferential Income Tax Rate for Research and Development for FIEs
31. Preferential Tax Programs for Encouraged Industries
32. Preferential Tax Policies for Township Enterprises
33. Provincial Level Grants to Loss-making SOEs
34. Reduced Income Tax Rates for Encouraged Industries in Anhui Province
35. Provision of Land for Less Than Adequate Remuneration in Anhui Province

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<sup>158</sup> In this section, we refer to programs preliminarily found to be not used by the RZBC Companies.

36. Funds for Outward Expansion of Industries in Guangdong Province
37. Income Tax Exemption for FIEs Located in Jiangsu Province
38. Administration Fee Exemption in the Yixing Economic Development Zone (YEDZ)
39. Tax Grants, Rebates, and Credits in the YEDZ
40. Provision of Construction Services in the YEDZ for LTAR
41. Grants to FIEs for Projects in the YEDZ
42. Provision of Electricity in the YEDZ for LTAR
43. Provision of Water in the YEDZ for LTAR
44. Provision of Land in the YEDZ for LTAR
45. Provision of Land to SOEs for LTAR
46. Torch Program – Grant
47. Discounted Loans for Export-Oriented Industries
48. Provision of Land in the Zhuqiao Key Open Park for LTAR
49. Special Funds for Energy Saving and Recycling Program
50. Water Resource Reimbursement Program
51. Shandong Province: Energy Saving Award
52. VAT and Import Duty Exemptions on Imported Equipment
53. Ecology Compensation Subsidy Funds
54. Provision of Land for LTAR to Enterprises in Strategic Emerging Industries in Rizhao City
55. Provision of Land for LTAR to Enterprises Located in Development Parks/Zones in the Donggang District
56. Provision of Plants for LTAR to Enterprises in the Science and Technology Incubator of Rizhao High-Tech Industrial Development Zone
57. Fund for Large Technology-Intensive Projects in the Donggang District
58. Strategic Emerging Industries Fund of Shandong Province
59. Tax Refunds for Export-Oriented Trading Companies in the Donggang District
60. Tax Refunds to Large-Scale Trading Companies in the Donggang District
61. Provision of Electricity for LTAR
62. Provision of Natural Gas for LTAR
63. Provision of Water for LTAR
64. Income Tax Credits on Purchases of Domestically Produced Equipment
65. Grant to State Key New Products
66. Subsidies to Shandong Provinces Enterprise Key Technology Renovation Projects
67. Shandong Province Brand Development Fund
68. Donggang District Awards for Famous Brands
69. Donggang District Awards for New Products and Technology Centers
70. Donggang District Interest Rate Subsidy to Technology Renovation Projects
71. Export Credit Subsidy Programs: Export Buyer’s Credit
72. Return of Land Use Right Deed Tax
73. Award for Contribution to City and People
74. Enterprise Technology Research and Development Subsidy
75. Financial Resource Construction Award
76. Technology Innovation Advanced Unit Award
77. Special Fund for Foreign Trade Public Service Platform

- 78. Shandong Province Science and Technology Development Fund
- 79. Self-Innovation Special Fund
- 80. Self-Innovation Achievement Convert into Major Industry Structure Optimization Upgrade Project
- 81. Shandong Self-Innovation Subsidy
- 82. Special Fund for Pollution Control of Three Rivers, Three Lakes, and the Songhua River
- 83. Fund for Energy-saving Technological Innovation

**CONCLUSION**

We recommend applying the above methodology for these preliminary results.

\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

\_\_\_\_\_  
Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

\_\_\_\_\_  
Date