



UNITED STATES DEPARTMENT OF COMMERCE  
International Trade Administration  
Washington, D.C. 20230

A-570-937

POR: 5/1/2010-4/30/2011

Public Document

IA/04: MC/KH

December 4, 2012

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Import Administration

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

SUBJECT: Issues and Decision Memorandum for the Second Administrative  
Review of Citric Acid and Certain Citrate Salts from the People's  
Republic of China

---

## SUMMARY

We have analyzed the case and rebuttal briefs of interested parties in the second administrative review of the antidumping duty order of citric acid and certain citrate salts from the People's Republic of China ("PRC").<sup>1</sup> The period of review ("POR") covers May 1, 2010, through April 30, 2011. As a result of our analysis, we have made no changes to the margin calculations in the Preliminary Results.<sup>2</sup> We recommend that you approve the positions described in the "Discussion of the Issues" section of this memorandum.

## BACKGROUND

On June 6, 2012, the Department of Commerce ("Department") published in the Federal Register the Preliminary Results in the 2010-2011 administrative review of the antidumping duty order on citric acid and certain citrate salts from the PRC. On July 6, 2012, the Department received a case brief from RZBC Co., Ltd., RZBC Imp. & Exp. Co., Ltd., RZBC (Juxian) Co., Ltd. (collectively "RZBC"), a mandatory respondent. On July 11, 2012, the Department received a rebuttal brief from Archer Daniels Midland Company, Cargill, Incorporated, and Tate & Lyle

---

<sup>1</sup> See Letter from RZBC to the Department, regarding "Citric Acid and Citrate Salt from People's Republic of China: Case Brief," dated July 6, 2012 ("RZBC's Case Brief"); see also Letter from Petitioners to the Department, regarding "Citric Acid and Certain Citrate Salts From The People's Republic of China: Rebuttal Brief," dated July 11, 2012. ("Petitioners' Rebuttal Brief").

<sup>2</sup> See Citric Acid and Certain Citrate Salts From the People's Republic of China: Preliminary Results of the Second Administrative Review of the Antidumping Duty Order; and Partial Rescission of Administrative Review, 77 FR 33399 (June 6, 2012) ("Preliminary Results").



Ingredients Americas LLC (“Petitioners”). On October 23, 2012, the Department released the Post-Preliminary Results to interested parties.<sup>3</sup> In the Post-Preliminary Results, the Department conducted a targeted dumping analysis, however, found it appropriate to continue to apply the average-to-average calculation methodology used in the Preliminary Results.

The Department originally extended the deadline for these final results until December 3, 2012.<sup>4</sup> As explained in the memorandum from the Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 29, through October 30, 2012.<sup>5</sup> Thus, all deadlines in this segment of the proceeding have been extended by two days. The revised deadline for the final results of this review is now December 5, 2012.

## **SCOPE OF THE ORDER**

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

---

<sup>3</sup> See Memorandum from Abdelali Elouaradia to Paul Piquado, regarding “Second Antidumping Administrative Review of Citric Acid and Certain Citrate Salts from the People’s Republic of China: Post-Preliminary Analysis Memo,” dated October 22, 2012 (“Post-Preliminary Results”).

<sup>4</sup> See Memorandum from Krishna Hill to Christian Marsh, regarding “Citric Acid and Certain Citrate Salts from the People’s Republic of China: Extension of Time Limit for the Final Results of the Antidumping Duty Administrative Review,” dated September 20, 2012.

<sup>5</sup> See Memorandum to the Record from Paul Piquado, AS for Import Administration, regarding “Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Hurricane,” dated October 31, 2012.

## DISCUSSION OF THE ISSUES

### Comment 1: Whether the Department Should Exclude Water from the Margin Calculation

- RZBC contends that water is not treated differently in surrogate producer PT Budi Acid Jaya TBK's ("PT Budi") financial statement, based upon its use as either an energy source or a raw material, *i.e.*, regardless of the manner in which water is used in the production process, it is accounted for in PT Budi's financial statement as overhead.
- RZBC contends that the consumption of water is not tracked as a direct material but is tracked more in the nature of utility costs. Specifically, RZBC notes that water is not stored, entered into inventory, or pre-purchased in set quantities like raw materials. RZBC argues that water is purchased and consumed similarly to electricity and steam and it is billed from the utility company based upon metered quantities used over a set period of time. Thus, similarly to RZBC's other energy costs, RZBC asserts that the Department should exclude water from the margin calculation to avoid double counting because water is not in the "raw material" expense for the surrogate company's cost of goods.
- RZBC argues that PT Budi's financial statement clearly distinguishes "raw material" related costs from "utility costs." RZBC states that raw materials, based on PT Budi's financial statement, are inputs that are at minimum inventoried (assets), purchased in set quantities, with beginning and ending balances, unlike energy or utility costs. Further, RZBC asserts that PT Budi's financial statement provides evidence that the company treats electricity and water expenses on an accrued basis (*i.e.*, utility costs) and treats both electricity and water as a single expense in its reported general and administrative ("G&A") expenses.
- Citing the MLWF Initiation, RZBC argues that treating water as factory overhead when using Indonesian financial Statements is consistent with the Department's past practice.<sup>6</sup> Further, RZBC maintains that in the MLWF Initiation, the Department found that excluding water costs was consistent with its final determination in the antidumping duty investigation of this proceeding.<sup>7</sup>
- Petitioners disagree with RZBC and note that the Department treated all of RZBC's water consumption as a direct material because RZBC failed to comply with the Department's instructions to separately report water used as an energy expense and water used as a direct raw material in the production process. Petitioners argue that there is no evidence that this action resulted in double counting because nothing in PT Budi's financial statements demonstrates that the company accounts for all water consumption as factory overhead. Specifically, Petitioners contend that PT Budi's financial statement reveals only that PT Budi separately accounts for water expenses incurred for selling, general and administrative expenses and manufacturing activities, but it provides no indication that water expenses incurred for manufacturing are classified within factory overhead.

---

<sup>6</sup> See Multilayered Wood Flooring From the People's Republic of China; Initiation of Antidumping Duty Investigation, 75 FR 70714, 70717 (November 18, 2010) ("MLWF Initiation").

<sup>7</sup> See MLWF Initiation, 75 FR at 70717 (citing Citric Acid and Certain Citrate Salts From the People's Republic of China; Final Affirmative Determination of Sales at Less Than Fair Value, 74 FR 16838 (April 13, 2009), and accompanying Issues and Decision Memorandum at Comment 2.

Because RZBC has failed to demonstrate any “double-counting,” Petitioners argue that the Department should continue to treat RZBC’s water consumption as a direct material.

**Department Position:** We agree with Petitioners and have continued to value RZBC’s total water consumption as a direct material for the final results. The Department requested RZBC to revise its factors of production (“FOP”) database to report two types of water usage, *i.e.*, water used as an energy input and water used as a direct material input.<sup>8</sup> RZBC failed to comply with the Department’s request by reiterating its belief that water is not a direct material input and by continuing to report its total consumption of water as a single number.<sup>9</sup> While RZBC may argue that water is not a direct material input, RZBC reported that water is used in numerous production stages of citric acid.<sup>10</sup> Given RZBC’s failure to comply with the Department’s allocation request, and its admission that water is used throughout numerous stages of its production process, the Department, as facts available for the Preliminary Results, valued RZBC’s total reported water consumption as a direct material input.<sup>11</sup>

Although the Department classified RZBC’s total consumption of water as a direct material input for facts available purposes in this instant review, we note that such a classification is consistent with the Department’s practice and experience in this case. Specifically, in the underlying investigation of this proceeding, the Department treated Yixing Union Biochemical Co., Ltd.’s (“Yixing Union”) total consumption of water as a direct material input even though Yixing Union reported water as solely an energy input.<sup>12</sup> The Department treated Yixing Union’s water consumption in this manner because we found that Yixing Union used “some” water directly in the production of citric acid.<sup>13</sup> In addition, in the first administrative review of this order, RZBC admitted to using water throughout “most” of the production process, however did not comply with the Department’s request to report two types of water usage. As a result, the Department treated RZBC’s total consumption of water as a direct material input even though RZBC reported water as solely an energy input.<sup>14</sup> Therefore, the Department’s treatment of RZBC’s total water consumption as a direct material in this administrative review is consistent with Department practice because, as in the prior review, RZBC admitted to using water throughout numerous stages of its production process.<sup>15</sup>

<sup>8</sup> See Letter from the Department to RZBC, regarding “Administrative Review of the Antidumping Duty Order on Citric Acid and Certain Citrate Salts from the People’s Republic of China: Second Supplemental Questionnaire,” dated February 7, 2012, at 8.

<sup>9</sup> See Letter from RZBC to the Department, regarding “Citric Acid and Citrate Salt from the People’s Republic of China: 2nd Supplemental Questionnaire Response,” dated March 9, 2012 (“RZBC’s March 9 Response”) at 18-20.

<sup>10</sup> *Id.* at 19.

<sup>11</sup> See Memorandum from Maisha Cryor and Krishna Hill to Robert Bolling, regarding “Second Administrative Review of the Antidumping Duty Order on Citric Acid and Certain Citrate Salts from the People’s Republic of China: Analysis of the Preliminary Results Margin Calculation for RZBC Co., Ltd., RZBC Import & Export Co., Ltd., and RZBC (Juxian) Co., Ltd.,” dated May 30, 2012 (“Preliminary Analysis Memo”) at 5.

<sup>12</sup> See Memorandum from Andrea Berton, through Charles Riggle, to The File, regarding “Investigation of Citric Acid and Certain Citrate Salts from the People’s Republic of China: Analysis of the Preliminary Determination Margin Calculation for Yixing Union Biochemical Co., Ltd.,” dated November 12, 2008 at 6.

<sup>13</sup> See *id.*

<sup>14</sup> See Citric Acid and Certain Citrate Salts from the People’s Republic of China: Final Results of the First Administrative Review of the Antidumping Duty Order, 76 FR 77772 (December 14, 2011), and accompanying Issues and Decision Memorandum at Comment 1.

<sup>15</sup> See RZBC’s March 9 Response at 19.

In addition, the Department's treatment of RZBC's total consumption of water as a direct material input is consistent with the Department's practice generally to treat an FOP as a direct material input when, as in this instant case, significant amounts of the FOP are continuously used in the production process of subject merchandise.<sup>16</sup> Moreover, the Department has previously found water to be properly classified as a direct material input, rather than overhead, when it was shown not to be incidental or occasionally consumed in the production of subject merchandise.<sup>17</sup> As noted above, RZBC's detailed description of the use of water throughout citric acid's different production stages indicates that water is not incidental or occasionally consumed in the production of subject merchandise.<sup>18</sup>

Furthermore, RZBC cites to the MLWF Initiation and, by reference, the underlying investigation of this proceeding, in stating that treating water as factory overhead when using Indonesian financial statements is consistent with the Department's past practice, and that excluding water costs is consistent with the final determination of this underlying investigation. We find that RZBC's reference is inapposite because it refers to the Department's decision in this underlying investigation to not separately value energy when it is not broken out from the surrogate financial statement's factory overhead. However, the Department treated water as a direct material and included water in the margin calculation in the investigation.<sup>19</sup> Moreover, we find that we have not double counted water by valuing it separately. Specifically, there is no evidence in the surrogate producer's financial statement used in this case that total water consumption is captured in overhead.

In addition, RZBC has not demonstrated that water is not treated as a direct material input in the surrogate producer's financial statement. RZBC points to notes 7, 16, and 31 of PT Budi's financial statement as evidence that PT Budi treats water as overhead and not a material expense.<sup>20</sup> However, we find that none of these notes indicates that water is included in PT Budi's manufacturing overhead. RZBC argues that because water expense is a utility expense, it is not recognized as a raw material, or broadly speaking, as an inventoried asset. However, we find that note 7 does not indicate that water is not incorporated under raw material. Additionally, although notes 16 and 31 demonstrate that water is accounted for under accrued expenses and G&A expenses, respectively, the notes do not establish that all water consumption, specifically related to the production process, is accounted for under these two expenses. Therefore, for the

---

<sup>16</sup> See Seamless Refined Copper Pipe and Tube from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 75 FR 60725 (October 1, 2010), and accompanying Issues and Decision Memorandum at Comment 15.

<sup>17</sup> See Malleable Iron Pipe Fittings From the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 71 FR 37051 (June 29, 2006), and accompanying Issues and Decision Memorandum at Comment 18.

<sup>18</sup> See RZBC's March 9, 2012, Questionnaire Response at 18-20.

<sup>19</sup> See Memorandum from John M. Andersen to Ronald K. Lorentzen, regarding "Issues and Decision Memorandum for the Investigation of Citric Acid and Certain Citrate Salts from the People's Republic of China," dated April 6, 2009 at Comment 5D.

<sup>20</sup> See RZBC's Case Brief at 3.

final results, given the continuous and significant role of water in the production process of citric acid, we will continue to value water separately in accordance with our practice.<sup>21</sup>

## **Comment 2: Surrogate Value for Water**

- RZBC argues that the source used to value water in the Preliminary Results is not contemporaneous. Instead, RZBC recommends that the Department use POR contemporaneous Indonesian water tariffs that were submitted in RZBC's January 6, 2012, surrogate value comments.<sup>22</sup> RZBC asserts that the only difference between the two sources is that the tariff data submitted on January 6, 2012, is contemporaneous. Additionally, RZBC states that the water tariffs submitted on January 6, 2012 are based on the same industrial production category from the same Indonesian water utility companies as used to value water in the First Administrative Review and the Preliminary Results in the instant review.
- RZBC asserts that Section 773(c)(1)(B) of the Tariff Act of 1930, as amended, directs the Department to use "the best information available" from the appropriate market economy country to value FOPs. In this instance, RZBC argues that the water surrogate value submitted on January 6, 2012, represents the best information available on the record.
- Petitioners contend that the Department should continue to value water based on the United Nations Human Development Report 2006: Disconnected: Poverty, Water Supply, and Development in Jakarta Indonesia ("UN Report") used in the Preliminary Results. Petitioners assert that there is no reason to depart from the UN Report, since the Department has used this source to value water for several recent cases from Indonesia.<sup>23</sup>
- Additionally, Petitioners argue that the source submitted by RZBC does not indicate that it is contemporaneous with the 2010/2011 period, contrary to RZBC's claim. Petitioners also assert that the new source seems to only reflect pricing for a single regional supplier, PALYJA, rather than a broad country-wide average. Moreover, Petitioners contend that RZBC provided no background information on the supplier, or demonstrated that the pricing information is reliable. Petitioners also note that the source is not fully translated and argue that it is largely illegible.

**Department Position:** In the Preliminary Results, we valued water using the average water rate charged provided in the UN Report.<sup>24</sup> The water rate is based on the 2005 average water tariff under Group IVa, which is made up of "large hotels, high rise buildings, banks, and factories." Since the UN Report provided the water rate based on 2005 data, we inflated the water rate to the POR. We agree with Petitioners and have continued to value water using the UN Report in the final results.

---

<sup>21</sup> See Memorandum from Krisha Hill and Maisha Cryor to Robert Bolling, regarding "Preliminary Results of the Second Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China: Surrogate Value Memorandum," dated May 30, 2012 ("Surrogate Value Memorandum"); see also Preliminary Analysis Memo.

<sup>22</sup> See Letter from RZBC to the Department, regarding "Citric Acid and Citrate Salt from the People's Republic of China: Surrogate Value Comments," dated January 6, 2012, at Attachment 4.

<sup>23</sup> See Petitioners' Rebuttal Brief at 4.

<sup>24</sup> See Surrogate Value Memorandum at Attachment III.

We have reviewed Attachment 4 of RZBC's January 6, 2012 submission, and its resubmitted version of Attachment 4 provided in Exhibit 31 of the March 9, 2012, supplemental questionnaire response, and have concluded that this source is neither contemporaneous nor reliable. Additionally, we note that pages 2, 3, and 4 of Attachment 4 of the January 6, 2012, submission, or the resubmitted version, are not fully legible as the text is too small and, therefore, cannot be read. Although RZBC stated that its pricing information provided on January 6, 2012 is contemporaneous with the POR, we note that the pages submitted are dated January 2007. Additionally, we did not find any additional information which may indicate that the pricing information is contemporaneous with the POR. In its March 9, 2012, submission, RZBC stated that the website is reported in the submitted pages so that the Department may review and confirm the water value for Group IVB, which RZBC asserted is the same customer group used in the investigation and the first administrative review. First, we note that the category "large hotels, high rise buildings, banks, and factories" used to value water is classified under Group IVa in the UN Report, not Group IVB. Second, in addition to this inconsistency, we note that we did not find a website provided in the pages submitted.

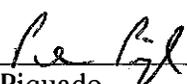
Furthermore, we have not found sufficient evidence to conclude that the pricing information provided by RZBC is derived from the same companies reflected in the UN Report. Although the documentation identifies two entities, PAM JAYA and PALYJA, we have not found evidence which explicitly states that the water rates are tied to these two entities. Moreover, we find that the March 9, 2012, resubmitted version is not fully legible. Because the January 6, 2012, pricing information is not fully legible, does not appear to be contemporaneous, and provides insufficient information regarding the claimed source website, group category and entities, we have determined that the UN Report is the superior data. Therefore, for the final results, we will continue to value water using the UN Report.<sup>25</sup>

## RECOMMENDATION

Based on our analysis of the comments received, we recommend adopting the above positions. If these recommendations are accepted, we will publish the final results of this review and the final weighted-average dumping margin in the Federal Register.

✓  
\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

  
\_\_\_\_\_  
Paul Piquado  
Assistant Secretary  
for Import Administration

4 DECEMBER 2012  
\_\_\_\_\_  
Date

<sup>25</sup> See Surrogate Value Memorandum; see also Preliminary Analysis Memo.