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MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

FROM: James Maeder *JPM*  
Director, Office of  
Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of Antidumping  
Duty Administrative Review: Citric Acid and Certain Citrate Salts  
from the People's Republic of China

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## SUMMARY

In response to requests from interested parties, the Department of Commerce ("Department") is conducting the fourth administrative review ("AR") of the antidumping duty order on citric acid and certain citrate salts ("citric acid") from the People's Republic of China ("PRC"), for the period of review ("POR") May 1, 2012, through April 30, 2013. The AR covers two exporters of subject merchandise: Yixing-Union Biochemical Co., Ltd. ("Yixing Union") and Laiwu Taihe Biochemistry Co., Ltd. ("Taihe"). The Department preliminarily determines that during the POR, both Yixing Union and Taihe sold subject merchandise in the United States at prices below normal value ("NV").

If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. We will issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), unless that time is extended.

## Background

On May 29, 2009, the Department published in the Federal Register the antidumping duty order on citric acid from the PRC.<sup>1</sup> On May 1, 2013, the Department notified interested parties of their opportunity to request an administrative review of orders, findings, or suspended investigations with anniversaries in May 2013, including the antidumping duty order on citric acid from the

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<sup>1</sup> See Citric Acid and Certain Citrate Salts from Canada and the People's Republic of China: Antidumping Duty Orders, 74 FR 25703 (May 29, 2009) ("Order").

PRC.<sup>2</sup> In May 2013, the Archer Daniels Midland Company, Cargill, Incorporated, and Tate & Lyle Ingredients Americas, Inc. (collectively, “Petitioners”), requested that the Department conduct an administrative review of RZBC Co., Ltd., RZBC Imp. & Exp. Co., Ltd., and RZBC (Juxian) Co., Ltd. (collectively, “RZBC”) and Yixing Union covering the period May 1, 2012, through April 30, 2013. Also, in May 2013, RZBC and Taihe requested that the Department conduct an administrative review of their sales of subject merchandise during the period May 1, 2012, through April 30, 2013. On June 28, 2013, the Department published the initiation of the fourth administrative review of the AD order on citric acid from the PRC and initiated reviews of RZBC, Yixing Union, and Taihe, for the period May 1, 2012, through April 30, 2013.<sup>3</sup> The Department issued the original questionnaire to Taihe, RZBC and Yixing Union on July 29, 2013.

On July 29, 2013, RZBC timely withdrew its request for an administrative review. Petitioners timely withdrew their request for an administrative review of RZBC’s sales on September 26, 2013.

Between August 2013 and April 2014, Taihe and Yixing Union responded to the Department’s antidumping questionnaire and supplemental questionnaires. Between October 2013 and April 2014, Petitioners commented on the respondents’ responses.

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, because of the shutdown of the Federal Government from October 1, 2013, through October 16, 2013, the Department exercised its discretion to toll deadlines for the duration of the closure. Thus, all deadlines in this segment of the proceeding have been extended by 16 days. The revised deadline for the preliminary results of these reviews was changed to February 18, 2014.<sup>4</sup>

On January 17, 2014, Petitioners alleged targeted dumping for Yixing Union and Taihe, and stated that there are patterns of export prices for comparable merchandise that differ significantly among purchasers, time periods, or regions.<sup>5</sup>

Additionally, on January 17, 2014, the Department extended the time period for issuing the preliminary results until April 18, 2014,<sup>6</sup> in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2).

On March 12, 2014, Petitioners and Yixing Union submitted pre-preliminary results comments.

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<sup>2</sup> See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity To Request Administrative Review, 78 FR 25420 (May 1, 2013) (“Opportunity to Request Administrative Review”).

<sup>3</sup> See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 78 FR 40 38924 (June 28, 2012) (“Initiation Notice”).

<sup>4</sup> See Memorandum to the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, regarding “Deadlines Affected by the Shutdown of the Federal Government,” dated October 18, 2013.

<sup>5</sup> See Letter from Petitioners to the Department, regarding “Citric Acid And Certain Citrate Salts From The People’s Republic Of China: Targeted Dumping Allegation,” dated January 17, 2014.

<sup>6</sup> See Memorandum from Krisha Hill, International Trade Compliance Analyst, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, regarding “Citric Acid and Certain Citrate Salts from the People’s Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review,” dated January 17, 2014.

## 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.

## DISCUSSION OF THE METHODOLOGY

### Duty Absorption

On July 29, 2013, Petitioners requested that the Department determine whether antidumping duties have been absorbed by exporters and producers subject to the AR.<sup>7</sup> Section 751(a)(4) of the Act provides for the Department, if requested, to determine during administrative review initiated two or four years after the publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter, if the subject merchandise is sold in the United States through an affiliated importer. This review was initiated four years after the publication of the Order.<sup>8</sup> However, both Yixing Union and Taihe reported that they had export (“EP”) sales during the POR, and no sales through an affiliated importer. Therefore, we did not conduct a duty absorption investigation.

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<sup>7</sup> See Letter from Petitioners to Penny Pritzker, Secretary of Commerce, Re: “Citric Acid and Certain Citrate Salts From the People’s Republic of China: Request to Investigate Duty Absorption, dated July 29, 2013.”

<sup>8</sup> See Initiation Notice, 78 FR 38924; see also Order, 74 FR 25703.

## NME Country Status

The Department considers the PRC to be a non-market economy (“NME”) country.<sup>9</sup> In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. The Department has not revoked the PRC’s NME status. Therefore, we continue to treat the PRC as an NME country for purposes of these preliminary results.

## Separate Rates

There is a rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single AD rate.<sup>10</sup> In the Initiation Notice, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings.<sup>11</sup> It is the Department’s policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (de jure) and in fact (de facto), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in Sparklers,<sup>12</sup> as amplified by Silicon Carbide.<sup>13</sup> However, if the Department determines that a company is wholly foreign-owned or located in a market economy (“ME”), then a separate rate analysis is not necessary to determine whether it is independent from government control.<sup>14</sup> In this administrative review, we received responses to section A of the NME AD questionnaire from Taihe and Yixing Union, which contained information pertaining to each company’s eligibility for a separate rate.

### a) Absence of De Jure Control

The Department considers the following de jure criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter’s business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies.<sup>15</sup>

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<sup>9</sup> See Certain Kitchen Appliance Shelving and Racks From the People’s Republic of China: Preliminary Results of the First Administrative Review, Preliminary Rescission, in Part, and Extension of Time Limits for the Final Results, 76 FR 62765, 62767-68 (October 11, 2011) unchanged in Certain Kitchen Appliance Shelving and Racks From the People’s Republic of China: Final Results and Partial Rescission of First Antidumping Duty Administrative Review, 77 FR 21734 (April 11, 2012).

<sup>10</sup> See Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People’s Republic of China, 71 FR 53079, 53082 (September 8, 2006); Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People’s Republic of China, 71 FR 29303, 29307 (May 22, 2006).

<sup>11</sup> See Initiation Notice, 78 FR 38925.

<sup>12</sup> See Final Determination of Sales at Less Than Fair Value: Sparklers From the People’s Republic of China, 56 FR 20588 (May 6, 1991) (“Sparklers”).

<sup>13</sup> See Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People’s Republic of China, 59 FR 22585 (May 2, 1994) (“Silicon Carbide”).

<sup>14</sup> See, e.g., Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles From the People’s Republic of China, 72 FR 52355, 52356 (September 13, 2007).

<sup>15</sup> See Sparklers, 56 FR at 20589.

The evidence provided by Taihe and Yixing Union supports a preliminary finding of de jure absence of government control based on the following: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies; and (3) there are formal measures by the government decentralizing control of the companies.<sup>16</sup>

b) Absence of De Facto Control

Typically, the Department considers four factors in evaluating whether each respondent is subject to de facto government control of its export functions: (1) whether the EPs are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.<sup>17</sup>

The Department has determined that an analysis of de facto control is critical in determining whether respondents are, in fact, subject to a degree of government control over export activities which would preclude the Department from assigning separate rates. For Yixing Union and Taihe, we determine that the evidence on the record supports a preliminary finding of de facto absence of government control based on record statements and supporting documentation showing the following: (1) the respondents set their own EPs independent of the government and without the approval of a government authority; (2) the respondents retain the proceeds from their sales and make independent decisions regarding disposition of profits or financing of losses; (3) the respondents have the authority to negotiate and sign contracts and other agreements; and (4) the respondents have autonomy from the government regarding the selection of management.<sup>18</sup>

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

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production ("FOP"). The Act further instructs that valuation of the FOP shall be based on the best available information from a surrogate ME country or countries considered to be appropriate by the

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<sup>16</sup> See Letter from Yixing Union to the Department, regarding "Citric Acid and Certain Citrate Salt from the People's Republic of China (A-570-937) - Section A Questionnaire Response of Yixing-Union Biochemical Co., Ltd.," dated September 3, 2012 ("Yixing Union Section A Response") at 5; see also Letter from Taihe to the Department, regarding "Citric Acid and Certain Citrate Salts from the People's Republic of China: Section A Response, dated August 26, 2013 ("Taihe Section A Response") at 4.

<sup>17</sup> See Silicon Carbide, 59 FR at 22586-87; see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China, 60 FR 22544, 22545 (May 8, 1995).

<sup>18</sup> See Yixing Union's Section A Response at 9-11 at A-2; see also Taihe's Section A Response at 7-9.

Department.<sup>19</sup> When valuing the FOP, the Department shall utilize, to the extent possible, the prices or costs of the FOP in one or more ME countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.<sup>20</sup> Once the Department has identified the countries that are economically comparable to the PRC and identifies those countries which are significant producers, the Department will select a primary surrogate country based upon whether the data for valuing FOPs are both available and reliable. Further, the Department normally values all FOPs in a single surrogate country.<sup>21</sup>

In examining which country to select as the primary surrogate country for this proceeding, the Department first determined that Colombia, Costa Rica, Indonesia, the Philippines, South Africa, and Thailand are countries whose per capita gross national incomes are comparable to the PRC in terms of economic development.<sup>22</sup>

On January 9, 2014, the Department invited parties to comment on surrogate country selection and provide information regarding FOP valuation in the AR.<sup>23</sup> On January 23, 2014, Taihe filed surrogate country comments stating that the Department should choose Indonesia as the surrogate country because: (1) it is economically comparable to the PRC; (2) it is a significant producer of comparable merchandise; and (3) its data for valuing FOPs are reliable.<sup>24</sup> On January 23, 2014, Yixing Union filed surrogate country comments noting that both Indonesia and Thailand are significant producers of comparable merchandise.<sup>25</sup> However, in its subsequent surrogate value comments, Yixing Union stated that Indonesia was the most appropriate country to use as the primary surrogate country source.<sup>26</sup> No other parties filed comments or rebuttal comments regarding the selection of a surrogate country. However, the Department notes that Petitioners' recommended surrogate values ("SV") are primarily derived from Indonesian data.<sup>27</sup>

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<sup>19</sup> See section 773(c)(1) of the Act.

<sup>20</sup> See section 773(c)(4) of the Act.

<sup>21</sup> See 19 CFR 351.408(c)(2).

<sup>22</sup> See Letter from Robert Bolling to All Interested Parties, Re: "Fourth Antidumping Duty Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China: Surrogate Country List," dated January 9, 2014, ("Surrogate Country List").

<sup>23</sup> Id.

<sup>24</sup> See Letter from Taihe to Penny Pritzker, Secretary of Commerce, Re: "Citric Acid and Citrate Salt from the People's Republic of China," dated January 23, 2014 ("Taihe Surrogate Country Comments").

<sup>25</sup> See Letter from Yixing-Union to Penny Pritzker, Secretary of Commerce, Re: "Antidumping Duty Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China – Response of Yixing-Union Biochemical Co., Ltd. To Request for Comments Regarding Surrogate Country Selection," dated January 23, 2014 ("Yixing Union Surrogate Country Comments").

<sup>26</sup> See Letter from Yixing-Union to Penny Pritzker, Secretary of Commerce, Re: "Antidumping Duty Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China – Response of Yixing-Union Biochemical Co., Ltd. To Request for Comments Regarding Surrogate Values," dated February 6, 2014 ("Yixing Union Surrogate Value Comments").

<sup>27</sup> See Letter from Petitioners to Penny Pritzker, Secretary of Commerce, Re: "Citric Acid and Certain Citrate Salt from PRC: Submission of Surrogate Value Information," dated February 6, 2014 ("Petitioners' Surrogate Value Comments").

## *Economic Comparability*

As explained in the Surrogate Country List, Colombia, Costa Rica, Indonesia, the Philippines, South Africa, and Thailand are all comparable to the PRC in terms of economic development.<sup>28</sup> Accordingly, unless we find that all of the countries determined to be equally economically comparable are not significant producers of comparable merchandise, do not provide a reliable source of publicly available surrogate data, or are unsuitable for use for other reasons, or we find that another equally comparable country is an appropriate surrogate, we will rely on data from one of these countries. Therefore, we consider all six countries as having met this prong of the surrogate country selection criteria.<sup>29</sup>

## *Significant Producer of Comparable Merchandise*

Section 773(c)(4)(B) of the Act requires the Department to value FOPs in a surrogate country that is a significant producer of comparable merchandise. Neither the statute nor the Department's regulations provide further guidance on what may be considered comparable merchandise. Given the absence of any definition in the statute or regulations, the Department looks to other sources such as the Policy Bulletin for guidance on defining comparable merchandise. The Policy Bulletin states that "in all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise."<sup>30</sup> Conversely, if identical merchandise is not produced, then a country producing comparable merchandise is sufficient in selecting a surrogate country.<sup>31</sup> Further, when selecting a surrogate country, the statute requires the Department to consider the comparability of the merchandise, not the comparability of the industry.<sup>32</sup> In this instance, record evidence<sup>33</sup> demonstrates that Indonesia and Thailand are significant producers of identical merchandise.<sup>34</sup>

## *Data Availability*

When the Department finds that there is more than one country that is at the level of economic development of the NME country and is a significant producer of comparable merchandise, the Department will consider the availability of the surrogate value ("SV") data.<sup>35</sup> In assessing SV data and data sources, it is the Department's practice to consider a number of factors including whether the values represent broad-market averages, are specific to the inputs in question, are net of taxes and import duties, are contemporaneous with the period of investigation or review, and

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<sup>28</sup> See Surrogate Country List.

<sup>29</sup> See Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) ("Policy Bulletin") at 2.

<sup>30</sup> Id.

<sup>31</sup> The Policy Bulletin also states that "if considering a producer of identical merchandise leads to data difficulties, the operations team may consider countries that produce a broader category of reasonably comparable merchandise." Id., at note 6.

<sup>32</sup> See Sebacic Acid from the People's Republic of China; Final Results of Antidumping Duty Administrative Review, 62 FR 65674, 65675-76 (December 15, 1997) ("{T}o impose a requirement that merchandise must be produced by the same process and share the same end uses to be considered comparable would be contrary to the intent of the statute.").

<sup>33</sup> See Yixing Union Surrogate Country Comments at Exhibit 1; see also Taihe Surrogate Country comments at Exhibit 1.

<sup>34</sup> Parties did not submit information pertaining to other potential surrogate countries in this review.

<sup>35</sup> Id.

are publicly available.<sup>36</sup> Further, it is the Department's preference, consistent with 19 CFR 351.408(c)(2), to value the FOPs in a single surrogate country, when possible.<sup>37</sup>

Consistent with the original investigation, and the first, second, and third administrative reviews, the Department finds Indonesia to be a reliable source for SVs because Indonesia is at a comparable level of economic development, pursuant to 773(c)(4) of the Act, is a significant producer of identical and comparable merchandise, and has publicly available and reliable data. Specifically, the record includes an Indonesian financial statement with sufficient detail to allow the Department to calculate surrogate financial ratios.<sup>38</sup> The Thai financial statement on the record does not provide a sufficient level of detail to enable the Department to calculate reliable surrogate financial ratios.<sup>39</sup> Given the above facts, the Department selected Indonesia as the primary surrogate country for this review. A detailed explanation of the SVs is provided below in the "Normal Value" section of this notice.

For these reasons, the Department will rely on Indonesia as the surrogate country for this review because Indonesia is economically comparable to the PRC, is a significant producer of subject merchandise, and has reliable and usable SV data.

### Surrogate Value Comments

On February 6, 2014, Yixing Union, Taihe, and Petitioners filed surrogate value comments. A clarification of previously submitted factual information and updated SV comments were submitted by Taihe on February 14, 2014. No other parties submitted SV comments. For a detailed discussion of the SVs used in this review, see the "Factor Valuation" section below and the SV Memorandum, issued concurrently with this memorandum.<sup>40</sup>

### Date of Sale

Consistent with our regulation, 19 CFR 351.401(i), Yixing Union and Taihe reported the invoice date as the date of sale.<sup>41</sup> In this case, because the Department found no evidence contrary to the

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<sup>36</sup> See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China, 71 FR 53079 (September 8, 2006) ("CLPP"), and accompanying Issues and Decision Memorandum at Comment 3.

<sup>37</sup> See, e.g., Certain Frozen Warmwater Shrimp From the People's Republic of China: Final Results, Partial Rescission of Sixth Antidumping Duty Administrative Review and Determination Not To Revoke in Part, 77 FR 53856 (September 4, 2012) and accompanying Issues and Decision Memorandum at Comment 10.

<sup>38</sup> See Letter from Yixing Union to Penny Pritzker, Secretary of Commerce, Re: "Antidumping Duty Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China-Response of Yixing-Union Biochemical Co., Ltd. to Request for Comments Regarding Surrogate Values, dated February 6, 2014, at Exhibit 9 ("Yixing Union SV Comments").

<sup>39</sup> See Letter from Petitioners to Penny Pritzker, Secretary of Commerce, Re: "Citric Acid and Certain Citrate Salt from the People's Republic of China: Submission of Surrogate Value Information, dated February 6, 2014, at Exhibit 1 ("Petitioners SV Comments").

<sup>40</sup> See Memorandum to the File from Krisha Hill and Maisha Cryor through Robert Bolling regarding "Surrogate Value Memorandum for the Preliminary Results of Antidumping Duty Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China" ("Surrogate Value Memorandum") issued concurrently with this memorandum.

<sup>41</sup> See Letter from Yixing Union to Penny Pritzker, Secretary of Commerce, Re: "Citric Acid and Certain Citrate Salts from the People's Republic of China (A-570-937) – Section C Questionnaire Response of Yixing-Union Biochemical Co., Ltd.," ("Yixing Union Section C Response") dated October 18, 2013, at C-14; see also Letter from

respondents' claims that invoice date was the appropriate date of sale, the Department used invoice date as the date of sale for these preliminary results.<sup>42</sup>

### Normal Value Comparisons

To determine whether the sales of citric acid made by Yixing Union and Taihe to the United States were at prices below NV, we compared each company's EP to NV as described in the "Export Price" and "Normal Value" sections below.

### Determination of the Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average EPs (or constructed export prices ("CEPs")) (the average-to-average method) unless the Department determines that another method is appropriate in a particular situation. In AD investigations, the Department examines whether to use the average-to-transaction method as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in AD investigations.<sup>43</sup> In recent investigations, the Department applied a "differential pricing" analysis to determine whether application of average-to-transaction comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.<sup>44</sup> The Department finds that the differential pricing analysis used in those recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers, regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The differential pricing analysis

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Taihe to Penny Pritzker, Re: "Citric Acid and Citrate Salts from the People's Republic of China: Section C and D Response," dated September 17, 2013 ("Taihe Section C and D Questionnaire Response") at 9.

<sup>42</sup> See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10.

<sup>43</sup> See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1.

<sup>44</sup> See Frontseating Service Valves From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011–2012, 78 FR 27954 (May 13, 2013); see also Certain Steel Threaded Rod From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011–2012, 78 FR 21101 (April 9, 2013).

used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported customer names. Regions are defined using the reported destination code (i.e., city name, zip code, etc.) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region and time period, that the Department uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the “Cohen’s *d* test” is applied. The Cohen’s *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen’s *d* coefficient is calculated when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen’s *d* coefficient is used to evaluate the extent to which the net prices to a particular purchaser, region or in a time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen’s *d* test: small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant, and the sales were considered to have passed the Cohen’s *d* test, if the calculated Cohen’s *d* coefficient is equal to or exceeds the large (i.e., 0.8) threshold.

Next, the “ratio test” assesses the extent of the significant price differences for all sales as measured by the Cohen’s *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test account for 66 percent or more of the value of total sales, then the identified pattern of EPs that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen’s *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen’s *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen’s *d* test. If 33 percent or less of the value of total sales passes the Cohen’s *d* test, then the results of the Cohen’s *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage (i.e., the Cohen’s *d* test and the ratio test) demonstrate the existence of a pattern of EPs that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on

the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if: 1) there is a 25 percent relative change in the weighted-average dumping margin between the average-to-average method and the appropriate alternative method where both rates are above the de minimis threshold, or 2) the resulting weighted-average dumping margin moves across the de minimis threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

### *Results of the Differential Pricing Analysis*

For Yixing Union, based on the results of the differential pricing analysis, the Department finds that 95.4 percent of Yixing Union's export sales pass the Cohen's *d* test, and confirms the existence of a pattern of prices for comparable merchandise that differ significantly among purchasers, regions or time periods.<sup>45</sup> However, the Department determines that the average-to-average method can appropriately account for such differences because there is less than a 25 percent relative change in the weighted-average dumping margins when calculated using the average-to-average method and an alternative comparison method based on the average-to-transaction method applied to all U.S. sales. Accordingly, the Department determined to use the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Yixing Union.

For Taihe, based on the results of the differential pricing analysis, the Department finds that 82.5 percent of Taihe's export sales pass the Cohen's *d* test, and confirms the existence of a pattern of prices for comparable merchandise that differ significantly among purchasers, regions or time periods.<sup>46</sup> Further, the Department determines that the average-to-average method cannot appropriately account for such differences because the resulting weighted-average dumping margins move across the de minimis threshold when calculated using the average-to-average method and an alternative comparison method based on the average-to-transaction method applied to all U.S. sales. Accordingly, the Department determined to use the average-to-transaction method for all U.S. sales to calculate the weighted-average dumping margin for Taihe.

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<sup>45</sup> See Memorandum to the File from Maisha Cryor, regarding "Fourth 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 Yixing-Union Biochemical Co., Ltd. ("Yixing-Union")," dated April 18, 2014 at 5.

<sup>46</sup> See Memorandum to the File from Krisha Hill, regarding "Fourth 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 Laiwu Taihe Biochemistry Co., Ltd.," dated April 18, 2014 ("Taihe Preliminary Results Margin Calculation") at 7.

## U.S. Price

### *Export Price*

In accordance with section 772(a) of the Act, EP is “the price at which subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States,” as adjusted under section 772(c) of the Act. We used the EP methodology, in accordance with section 772(a) of the Act, for sales in which the subject merchandise was first sold prior to importation by the exporter outside the United States directly to an unaffiliated purchaser in the United States and for sales in which CEP was not otherwise indicated. We find that all of Yixing Union’s and Taihe’s sales in this review are EP sales.<sup>47</sup>

We based EP on the price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight, marine insurance, and domestic brokerage and handling and international freight. We valued brokerage and handling using a price list of export procedures necessary to export a standardized cargo of goods in Indonesia. The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in Indonesia as reported in “Doing Business 2013: Smarter Regulations for Small and Medium-Size Enterprises; Economy Profile: Indonesia” published by the World Bank.<sup>48</sup> We valued international freight using freight cost reported by Descartes Carrier Rate Retrieval Database.<sup>49</sup>

### *Value Added Tax*

The Department recently announced a change of methodology regarding the calculation of EP and CEP to include an adjustment for the amount of any unrefunded VAT in certain NMEs, in accordance with section 772(c)(2)(B) of the Act.<sup>50</sup> Information placed on the record of this review demonstrates that the VAT rate during the POR was 17 percent, and that there was a VAT rebate rate of 13 percent applicable to exports of the merchandise under consideration.<sup>51</sup> In order to calculate a price net of VAT, we adjusted the net price reported by Taihe and Yixing Union for the unrefunded VAT.<sup>52</sup>

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<sup>47</sup> See Letter from Yixing Union to the Department, regarding “Citric Acid and Citrate Salt from the People’s Republic of China: Section A Response,” dated September 3, 2013, at 1; see also Taihe Section C and D Questionnaire Response at 22.

<sup>48</sup> See Surrogate Value Memorandum.

<sup>49</sup> Id.

<sup>50</sup> See Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings, 77 FR 36481 (June 19, 2012).

<sup>51</sup> See Taihe Section C and D Questionnaire Response at 28.

<sup>52</sup> See Analysis Memorandum.

## Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using an FOP methodology if the merchandise is exported from an NME country and the Department finds that the available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. When determining NV in a NME context, the Department will base NV on FOPs because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. This methodology ensures that the Department's calculations are as accurate as possible.<sup>53</sup>

We calculated NV based on FOPs in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c). The FOPs include but are not limited to: (1) hours of labor required, (2) quantities of raw materials employed, and (3) representative capital costs. The Department used FOPs reported by Yixing Union and Taihe for materials, labor, packing and by-products. Specifically, to calculate NV, the Department multiplied the reported per-unit FOP consumption quantities by publicly available SVs. See the "Factor Valuations" section below.

## Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on FOPs reported by Yixing Union and Taihe for the POR. In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to find an appropriate SV to value FOPs. However, when a producer sources an input from an ME and pays for it in an ME currency, the Department normally will value the factor using the actual price paid for the input.<sup>54</sup> To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available SVs (except as discussed below). In selecting SVs, we considered the quality, specificity, and contemporaneity of the data.<sup>55</sup> As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to import SVs the surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory, where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in Sigma Corp.<sup>56</sup>

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<sup>53</sup> See, e.g., Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products From the People's Republic of China, 71 FR 19695, 19703 (April 17, 2006), unchanged in Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China, 71 FR 53079 (September 8, 2006).

<sup>54</sup> See 19 CFR 351.408(c)(1); see also Shakeproof Assembly Components Div of III Tool Works v. United States, 268 F. 3d 1376, 1382-1383 (Fed. Cir. 2001) (affirming the Department's use of market-based prices to value certain FOPs).

<sup>55</sup> See, e.g., Fresh Garlic From the People's Republic of China: Final Results of Antidumping Duty New Shipper Review, 67 FR 72139 (December 4, 2002), and accompanying Issues and Decision Memorandum at Comment 6; and Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms From the People's Republic of China, 66 FR 31204 (June 11, 2001), and accompanying Issues and Decision Memorandum at Comment 5.

<sup>56</sup> See Sigma Corp. v. United States, 117 F.3d 1401, 1407-08 (Fed. Cir. 1997) ("Sigma Corp.").

For the preliminary results, except where noted below, we used data from the Indonesian and Thai import statistics in the Global Trade Atlas (“GTA”) and other publicly available Indonesian and Thai sources in order to calculate SVs for Yixing Union’s and Taihe’s FOPs (i.e., direct materials and packing materials) and certain movement expenses. Because Indonesia is the primary surrogate country, we used Indonesian data and applied Thai data only for SVs for which there were no usable Indonesian data. As noted above, when selecting the best available information for valuing FOPs, the Department’s practice is to select, to the extent practicable, SVs which are non-export average values, most contemporaneous with the POR, product-specific, and tax-exclusive.<sup>57</sup> The record shows that Indonesian and Thai import statistics obtained through GTA are contemporaneous with the POR, product-specific, and tax-exclusive.<sup>58</sup> In those instances where we could not obtain publicly available information contemporaneous to the POR with which to value factors, we adjusted the SVs using, where appropriate, the Indonesian Wholesale Price Index, as published by the Organization for Economic Cooperation and Development.<sup>59</sup>

In accordance with legislative history, the Department continues to apply its long-standing practice of disregarding SVs if it has a reason to believe or suspect the source data may be subsidized.<sup>60</sup> In this regard, the Department has previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea, and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.<sup>61</sup> Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, the Department finds that it is reasonable to infer that all exporters from India, Indonesia, South Korea and Thailand may have benefitted from these subsidies. Therefore, the Department has not used prices from India, Indonesia, South Korea and Thailand in calculating the import-based SVs. Additionally, we disregarded prices from NME countries.<sup>62</sup> Finally, imports that were labeled as originating from an “unspecified” country were excluded from the average value, because the Department could

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<sup>57</sup> See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam, 69 FR 42672, 42682 (July 16, 2004), unchanged in Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam, 69 FR 71005 (December 8, 2004).

<sup>58</sup> See Surrogate Value Memorandum.

<sup>59</sup> See *id.* at Attachment II.

<sup>60</sup> See Omnibus Trade and Competitiveness Act of 1988, Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) at 590.

<sup>61</sup> See Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order, 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at 4-5; Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review, 70 FR 45692 (August 8, 2005), and accompanying Issues and Decision Memorandum at 4; Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19-20; Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand, 66 FR 50410 (October 3, 2001), and accompanying Issues and Decision Memorandum at 23.

<sup>62</sup> See, e.g., Certain Kitchen Appliance Shelving and Racks From the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final determination, 74 FR 9591, 9600 (March 5, 2009), unchanged in Certain Kitchen Appliance Shelving and Racks From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value, 74 FR 36656 (July 24, 2009) and Certain Kitchen Appliance Shelving and Racks from the People’s Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Notice of Antidumping Duty Order, 74 FR 46971 (September 14, 2009).

not be certain that they were not from either an NME country or a country with generally available export subsidies.<sup>63</sup>

We valued truck freight expenses using a price list for domestic shipments from the Indonesian shipping company, PT Mantap Abiah Abadi, which is the only truck freight information available on the record.

To calculate the labor input, we based our calculation on information provided by the Department in Labor Methodologies, which recommends using single-country labor cost and compensation data from Chapter 6A of the International Labor Organization (“ILO”).<sup>64</sup> However, in this case, the Department notes that Chapter 6A does not contain recent Indonesian labor data from the ILO Yearbook. Therefore, for the preliminary results of this administrative review, the Department is valuing labor using an Indonesian industry-specific wage rate based on labor cost and compensation data from Chapter 5B of the ILO. The Department calculated an Indonesian industry-specific wage rate of 9,216.88 Rupiah per hour for the preliminary results. Specifically, the Department calculated the wage rate using data provided to the ILO under Sub-Classification 24 of the ISIC-Revision 3-D standard, and inflated this wage rate using the Indonesian Consumer Price Index as published in the International Monetary Fund’s International Financial Statistics. The Department finds the description under Sub-Classification 24 of the ISIC-Revision 3-D (“Manufacture of Chemicals and Chemical Products”) to be the best available wage rate SV source on the record because it is specific and derived from industries that produce merchandise comparable to the subject merchandise. A full description of the industry-specific wage rate calculation methodology is provided in the Surrogate Value Memorandum.<sup>65</sup>

The record includes one audited financial statement for the year ending December 2012 of PT Budi Acid Jaya TBK, a producer of comparable merchandise from Indonesia.<sup>66</sup> We calculated financial ratios for factory overhead, selling, general, and administrative expenses, and profit from this financial statement. Since we were unable to segregate and exclude energy costs from the calculation of the surrogate financial ratios, we disregarded Yixing Union and Taihe’s energy inputs (electricity, coal and steam) in the calculation of NV, in order to avoid double-counting energy costs that have necessarily been captured in the surrogate financial ratios, in the preliminary results.<sup>67</sup> While Petitioners provided a Thai financial statement as a possible surrogate for financial ratios, we note that this financial statement was not detailed enough to allow us to accurately calculate financial ratios. The Indonesian financial statements are from the company the Department has relied on since the investigation of citric acid from the PRC.

Yixing Union reported that it recovered and sold four by-products (*i.e.*, high protein scrap, mother liquid, calcium sulfate, and mycelium) in its production of subject merchandise. Taihe reported that it recovered and sold one by-product in its production of subject merchandise, corn

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<sup>63</sup> See *id.*

<sup>64</sup> See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011) (“Labor Methodologies”).

<sup>65</sup> See Surrogate Value Memorandum.

<sup>66</sup> *Id.*

<sup>67</sup> See Citric Acid and Certain Citrate Salts from the People’s Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value, 74 FR 16838 (April 13, 2009), and accompanying Issues and Decision Memorandum, at Comment 2.

feed.<sup>68</sup> We granted a by-product offset for Taihe's sale of corn feed.<sup>69</sup> We did not grant a by-product offset for Yixing Union's sales of high protein scrap, mother liquid, calcium sulfate and mycelium. In its March 12, 2014, pre-preliminary comments, Petitioners noted certain inconsistencies in the inspection reports Yixing Union provided for its by-products.<sup>70</sup> We issued a supplemental questionnaire to Yixing Union asking it to explain these inconsistencies.<sup>71</sup> Yixing Union responded that it believed the inconsistencies were due to human error and limited to particular months.<sup>72</sup> Yixing Union provided additional inspection report data to support these claims.<sup>73</sup> However, Yixing Union conceded that it was not certain how these errors occurred.<sup>74</sup> Upon reviewing these additional inspection report data, Petitioners noted additional inconsistencies that were not limited to the months conceded by Yixing Union.<sup>75</sup>

Yixing Union argues that the Department should not deny its by-product offset because the inspection reports are limited to quality control purposes and are not used to calculate the by-product offset.<sup>76</sup> However, we note that section 351.401(b) of the Department's regulations states that the interested party in possession of the relevant information has the burden of establishing the amount and nature of the adjustment. In this instance, Yixing Union admitted that information related to its by-product record keeping is not accurate and states that it is not entirely sure how the errors occurred.<sup>77</sup> Given these admissions, we are concerned about the accuracy and veracity of the by-product data as a whole. Therefore, we are denying Yixing Union a by-product offset for these preliminary results.

For a complete listing of all of the inputs and a detailed discussion regarding our SV selections, see Surrogate Value Memorandum.

### Currency Conversion

Where appropriate, we made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rate in effect on the date of the U.S. sale as certified by the Federal Reserve Bank.

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<sup>68</sup> See Taihe Section C and D Questionnaire Response at 13; see also Surrogate Value Memorandum.

<sup>69</sup> See Taihe Preliminary Results Margin Calculation at 6.

<sup>70</sup> See Letter from Petitioners to Penny Pritzker, Secretary of Commerce, Re: "Citric Acid and Certain Citrate Salt from PRC: Petitioners' Pre-Preliminary Results Comments," dated March 12, 2014 ("Petitioners' Pre-Preliminary Results Comments").

<sup>71</sup> See Letter to Yixing Union from the Department, Re "Administrative Review of the Antidumping Duty Order on Citric Acid and Certain Citrate Salts from the People's Republic of China: Supplemental Questionnaire, dated March 20, 2014.

<sup>72</sup> See Letter from Yixing Union to Penny Pritzker, Secretary of Commerce, Re: "Citric Acid and Certain Citrate Salt from PRC (A-570-937) – Third Supplemental Response of Yixing Union Biochemical Ltd.," dated April 1, 2014 at 1-2 ("Yixing Union Third Supplemental Response").

<sup>73</sup> See *id.*

<sup>74</sup> See Yixing Union Third Supplemental Response at 3-4 and Exhibit 1.

<sup>75</sup> See Letter from Petitioners to Penny Pritzker, Secretary of Commerce, Re: "Citric Acid and Certain Citrate Salt from PRC: Petitioners' Comments on Yixing's Third Supplemental Response," dated April 7, 2014 ("Petitioners' Pre-Preliminary Results Comments").

<sup>76</sup> See Yixing Union Third Supplemental Response at 1-2.

<sup>77</sup> See *id.* at 3-4 and Exhibit 1.

