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June 1, 2015

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
Antidumping Duty Administrative Review: Citric Acid and
Certain Citrate Salts from the People's Republic of China; 2013-14

SUMMARY

In response to requests from interested parties, the Department of Commerce ("Department") is conducting the fifth 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, 2013, through April 30, 2014. The AR covers three exporters of subject merchandise: RZBC Co., Ltd., RZBC Import & Export Co., Ltd., and RZBC (Juxian) Co., Ltd. (collectively, "RZBC"), Laiwu Taihe Biochemistry Co., Ltd. ("Taihe"), and Yixing Union Biochemical Ltd. ("Yixing Union"). We preliminarily determine that Yixing Union did not have any reviewable transactions during the POR. For RZBC and Taihe, because of outstanding issues pertaining to the selection of the surrogate country, we have preliminarily assigned to each its cash deposit rate currently in effect.

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. As explained in further detail below, we are requesting interested parties to submit appropriate surrogate country and surrogate value data following these preliminary results. We intend to 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

Initiation

On June 27, 2014, the Department published the notice of initiation of the fifth AR of citric acid from the PRC for the POR, May 1, 2013, to April 30, 2014.¹ The Department initiated an administrative review of three exporters of subject merchandise, RZBC, Taihe, and Yixing Union Biochemical Co., Ltd. (“Yixing Union”).² On January 8, 2015, the Department extended the time period for issuing the preliminary results by 120 days.³

Questionnaires

On July 16, 2014, the Department issued its non-market economy (“NME”) antidumping questionnaire to Taihe, RZBC, and Yixing Union. Taihe and RZBC timely responded to the Department’s initial and subsequent supplemental questionnaires between August 2014 and May 2015. As explained below, Yixing Union did not respond to the Department’s full questionnaire because it stated that it had no sales, shipments, or exports of the subject merchandise to the United States during the POR.

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

¹ See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 79 FR 36462, 36464 (June 27, 2014) (“Initiation Notice”).

² Id.

³ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, through Abdelali Elouaradia, Director, Office IV, Antidumping and Countervailing Duty Operations, from Krisha Hill, International Trade Compliance Analyst, Office IV, regarding “Citric Acid and Certain Citrate Salts from the from the People’s Republic of China: Extension of Deadline for the Preliminary Results of Antidumping Duty Administrative Review,” dated January 7, 2015.

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

Preliminary Determination of No Shipments

On July 8, 2014, Yixing Union reported that it had no sales, shipments, or exports of the subject merchandise to the United States during the POR.⁴ The Department issued the original questionnaire to RZBC, Taihe and Yixing Union on July 16, 2014. On July 18, 2014, Yixing Union submitted a letter stating that it would not respond to the Department's questionnaire because there were no sales to review.⁵ On August 1, 2014, Petitioners⁶ submitted factual information rebutting Yixing Union's no shipment claims by noting that publicly available ship manifest data showed the existence of two bills of lading for citric acid exported by Yixing Union to a U.S. importer during the POR.⁷ On August 15, 2014, Yixing Union rebutted Petitioners' August 1, 2014, submission and placed factual information on the record to support its claims that the exports referenced by Petitioners were ultimately shipped to Canada and sold to Canadian companies.⁸ On November 20, 2014, the Department placed on the record of this review information from a CBP data query related to potential POR entries of subject merchandise from Yixing Union.⁹ The Department requested that interested parties submit comments related to the data query;¹⁰ however, no interested party submitted comments. Based on the no-shipment claim submitted by Yixing Union and our analysis of the CBP information, we preliminarily determine that Yixing Union had no shipments of citric acid during the POR. In addition, the Department finds that, consistent with its practice, it is appropriate not to rescind the review, in part, for Yixing Union in this circumstance, but, rather, to complete the review with respect to Yixing Union and issue appropriate assessment instructions.¹¹

⁴ See Letter from Yixing Union to the Department, regarding "Yixing-Union Biochemical Co., Ltd. Statement of No Shipments during the POR: Antidumping Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China," dated July 8, 2014 ("No Shipment Letter").

⁵ See Letter from Yixing Union to the Department, regarding "Yixing-Union Biochemical Co., Ltd. Response to Antidumping Questionnaire: Antidumping Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China," dated July 18, 2014.

⁶ Petitioners in this administrative review are Archer Daniels Midland Company, Cargill, Incorporated, and Tate & Lyle Ingredients Americas LLC ("Petitioners").

⁷ See Letter from Petitioners to the Department, regarding "Citric Acid and Certain Citrate Salts From The People's Republic of China: Petitioners' Submission of Rebuttal Factual Information," dated August 1, 2014.

⁸ See Letter from Yixing Union to the Department, regarding "Citric Acid and Certain Citrate Salts from the People's Republic of China: Response of Yixing-Union Biochemical Co., Ltd. to August 1, 2014, Letter from Petitioners Regarding Publicly Available Ship Manifest Data," dated August 15, 2014.

⁹ See Memorandum to the File Regarding "Release of U.S. Customs and Border Protection Information Relating to No Shipment Claims Made in the 2013-2014 Administrative Review of Citric Acid and Certain Citrate Salts from the People's Republic of China," dated November 20, 2014.

¹⁰ *Id.*

¹¹ See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694, 65695 (October 24, 2011).

Non-Market Economy Country Status

The Department considers the PRC to be a non-market economy (NME) country.¹² 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. Therefore, we continue to treat the PRC as an NME country for purposes of these preliminary results.

Separate Rates

The Department has the rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single antidumping duty rate.¹³ 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.¹⁴ It is the Department's policy to assign all exporters of the merchandise subject to review in an NME proceeding 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 proceeding under the test established in Sparklers,¹⁵ as amplified by Silicon Carbide.¹⁶ However, if the Department determines that a company is wholly foreign-owned, then an analysis of the de jure and de facto criteria is not necessary to determine whether it is independent from government control.¹⁷

The Department continues to evaluate its practice with regard to the separate rates analysis in light of the Diamond Sawblades from the PRC antidumping duty proceeding, and the

¹² See, e.g., Certain Activated Carbon From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, 2011-2012, 78 FR 26748 (May 8, 2013) and accompanying Decision Memorandum at 6, unchanged in Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR at 70533 (November 26, 2013).

¹³ 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).

¹⁴ See Initiation Notice, 79 FR at 36463-36464.

¹⁵ 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").

¹⁶ 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").

¹⁷ See, e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of the 2011-2012 Antidumping Duty Administrative Review and New Shipper Reviews, 79 FR 4327 (January 27, 2014), and Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles From the People's Republic of China, 72 FR 52355, 52356 (September 13, 2007).

Department's determinations therein.¹⁸ In particular, in litigation involving the Diamond Sawblades from the PRC proceeding, the U.S. Court of International Trade ("CIT") found the Department's existing separate rates analysis deficient in the circumstances of that case, in which a government-owned and controlled entity had significant ownership in the exporter under examination.¹⁹

The Department received completed responses to the Section A portion of the NME questionnaire from the mandatory respondents, RZBC and Taihe, which contained information pertaining to the companies' eligibility for a separate rate.²⁰

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) any other formal measures by the government decentralizing control of companies.²¹ The evidence provided by RZBC and Taihe supports a preliminary finding of the absence of de jure government control of export activities based on the following: (1) there is 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.²²

¹⁸ See Final Results of Redetermination Pursuant to Remand Order for Diamond Sawblades and Parts Thereof from the People's Republic of China (May 6, 2013) in Advanced Technology & Materials Co., Ltd. v. United States, 885 F. Supp. 2d 1343 (CIT 2012) ("Advanced Technology I"), sustained, Advanced Technology & Materials Co. v. United States, 938 F. Supp. 2d 1342 (CIT 2013), aff'd, Case No. 2014-1154 (Fed. Cir. 2014) ("Advanced Technology II"). This remand redetermination is on the Enforcement and Compliance website at <http://enforcement.trade.gov/remands/12-147.pdf>; see also Diamond Sawblades and Parts Thereof from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 77098 (December 20, 2013) and accompanying Preliminary Decision Memo at 7, unchanged in Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 79 FR 35723 (June 24, 2014) ("Diamond Sawblades") and accompanying Issues and Decision Memorandum at Comment 1.

¹⁹ See, e.g., Advanced Technology I, 885 F. Supp. 2d at 1349 ("The court remains concerned that Commerce has failed to consider important aspects of the problem and offered explanations that run counter to the evidence before it."); id., at 1351 ("Further substantial evidence of record does not support the inference that SASAC's {state-owned assets supervision and administration commission} 'management' of its 'state-owned assets' is restricted to the kind of passive-investor de jure 'separation' that Commerce concludes.") (footnotes omitted); id., at 1355 ("The point here is that 'governmental control' in the context of the separate rate test appears to be a fuzzy concept, at least to this court, since a 'degree' of it can obviously be traced from the controlling shareholder, to the board, to the general manager, and so on along the chain to 'day-to-day decisions of export operations,' including terms, financing, and inputs into finished product for export."); id., at 1357 ("AT&M itself identifies its 'controlling shareholder' as CISRI {owned by SASAC} in its financial statements and the power to veto nomination does not equilibrate the power of control over nomination.") (footnotes omitted).

²⁰ See RZBC's August 20, 2014, Section A Questionnaire Response ("RZBC Section A") and Taihe's August 20, 2014, Section A Questionnaire Response ("Taihe Section A").

²¹ See Sparklers, 56 FR at 20589.

²² See RZBC Section A at A2-A-11 and Exhibit A-8; Taihe Section A at 2-10.

b. Absence of De Facto Control

Typically the Department considers four factors in evaluating whether each respondent is subject to de facto government control of its export functions: (1) whether the export prices (“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.²³ The Department determined that an analysis of de facto control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates.²⁴ The evidence provided by RZBC and Taihe supports a preliminary finding of the absence of de facto government control based on the following: (1) the companies set their own export prices independent of the government and without the approval of a government authority; (2) the companies have authority to negotiate and sign contracts and other agreements; (3) the companies have autonomy from the government in making decisions regarding the selection of management; and (4) there is no restriction on any of the companies’ use of export revenue.²⁵ Therefore, the Department preliminarily finds that RZBC and Taihe have established that they qualify for a separate rate under the criteria established by Silicon Carbide and Sparklers.

Surrogate Country

On January 9, 2015, the Department sent interested parties a letter inviting comments on surrogate country selection and surrogate value (“SV”) data.²⁶ On January 16, 2015, Petitioners, RZBC and Taihe submitted surrogate country comments.²⁷ Petitioners and RZBC submitted rebuttal surrogate country comments on January 23, 2015.²⁸

Surrogate Country Selection

When the Department investigates 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 (“FOPs”), valued in a surrogate ME country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the

²³ 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).

²⁴ Id.

²⁵ See RZBC Section A at A2-A-11 and Exhibit A-8; Taihe Section A at 2-10.

²⁶ See Department’s Letter to All Interested Parties, regarding “2013-2014 Administrative Review of the Antidumping Duty Order on Citric Acid and Certain Citrate Salts from the People’s Republic of China: Request for Surrogate Country and Surrogate Value Comments and Information,” dated January 9, 2015 (“Surrogate Country Memo”).

²⁷ See Petitioners’ Surrogate Country Selection Comments, dated January 16, 2015 (“Petitioners’ SC Comments”); RZBC’s Surrogate Country Selection Comments, dated January 16, 2015 (“RZBC’s SC Comments”); and Taihe’s Surrogate Country Selection Comments, dated January 16, 2014 (“Taihe’s SC Comments”).

²⁸ See Petitioners’ Second Surrogate Country Selection Comments, dated January 23, 2015 (“Petitioners’ Second SC Comments”); RZBC’s Second Surrogate Country Selection Comments, dated January 23, 2015 (“RZBC’s Second SC Comments”).

Department shall utilize, to the extent possible, the prices or costs of FOPs 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.²⁹ However, the applicable statute does not expressly define the phrase “level of economic development comparable” or what methodology the Department must use in evaluating the criterion. 19 CFR 351.408(b) states that in determining whether a country is at a level of economic development comparable to the NME country, the Department will place primary emphasis on *per capita* gross national income (“GNI”) as the measure of economic comparability.³⁰ The CIT has found the use of *per capita* GNI to be a “consistent, transparent, and objective metric to identify and compare a country’s level of economic development” and “a reasonable interpretation of the statute.”³¹

As a general rule, the Department selects a surrogate country that is at the same level of economic development as the NME country unless it is determined that none of the countries are viable options because (a) they either are not significant producers of comparable merchandise, (b) do not provide sufficient reliable sources of publicly available SV data, or (c) are not suitable for use based on other reasons.³² Surrogate countries that are not at the same level of economic development as the NME country, but still at a level of economic development comparable to the NME country, are selected only to the extent that data considerations outweigh the difference in levels of economic development.³³ To determine which countries are at the same level of economic development, the Department generally relies on *per capita* gross national income (“GNI”) data from the World Bank’s World Development Report.³⁴ Further, the Department normally values all FOPs in a single surrogate country.³⁵

On January 8, 2015, the Department identified Bulgaria, Ecuador, Romania, South Africa, Thailand and Ukraine as countries that are at the same level of economic development as the PRC based on *per capita* 2013 GNI data.³⁶ These six countries are not ranked and are considered equivalent in terms of economic comparability. On January 9, 2015, the Department issued a letter to interested parties soliciting comments on the list of countries that the Department determined, based on *per capita* 2013 GNI, to be at the same level of economic development as the PRC, the selection of the primary surrogate country, as well as provided deadlines for the consideration of any submitted surrogate value information for the preliminary results.³⁷ The Department received timely comments on the surrogate country list and surrogate country selection from Petitioners, RZBC and Taihe.³⁸

²⁹ See Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) (“Policy Bulletin 04.1”).

³⁰ The Department uses *per capita* GNI as a proxy for *per capita* GDP. GNI is GDP plus net receipt of primary income (compensation of employees and property income) from nonresident sources. See Policy Bulletin 04.1.

³¹ See *Jiaying Brother Fastener Co. v. United States*, 961 F. Supp. 2d 1323, 1329 (CIT 2014).

³² *Id.*

³³ See Surrogate Country Memo.

³⁴ *Id.*

³⁵ See 19 CFR 351.408(c)(2).

³⁶ See Surrogate Country Memo at Attachment I.

³⁷ See Surrogate Country Memo.

³⁸ See Petitioner’s SC Comments, RZBC’s SC Comments, and Taihe’s SC Comments.

RZBC, Taihe, and Petitioners assert that Indonesia, while not on the surrogate country list, is economically comparable to the PRC. Specifically, they argue that the increase in GNI disparity between Indonesia and the PRC, from 59.5 percent in the prior review to 54.6 percent in this review, is small. Parties note that Indonesia is a known significant producer of comparable merchandise and has reliable availability and quality of data to value all factors of production. Taihe argues that even if the Department finds that Indonesia is less comparable to China, that the history of Indonesia's economic comparability and reliability as a primary surrogate country in previous reviews warrants the inclusion of Indonesia as a potential surrogate country in this review.

As explained in our Surrogate Country Memo, on a *per capita* income basis, the Department considers Bulgaria, Ecuador, Romania, South Africa, Thailand and Ukraine all to be at the PRC's level of economic development for surrogate country-selection purposes. This list is, of course, not exhaustive; there are other countries that could be reasonably viewed as being at the PRC's level of economic development. The number of such countries is potentially large, however, and it is not administratively feasible for the Department to adopt an exhaustive list of potential surrogate countries, so the Department limits the initial list to five or six countries, with two important caveats, as explained in the *Policy Bulletin*.³⁹

First, as explained above, the initial list of surrogate country candidates is *not* exhaustive; it is only a starting point. Interested parties are free to identify other countries at the same level of economic development and argue that significant production of comparable merchandise and data sources in those countries warrant the selection of one of those countries for factor valuation purposes. The Department will examine whether countries identified by interested parties are at a level of economic development comparable to the NME, and considers all countries on the initial list as all equally satisfying the statutory requirement regarding the level of economic development, and selects the surrogate country from among them on the basis of significant production of comparable merchandise and data quality and availability.⁴⁰

Second, as a general rule, the Department looks to select the surrogate country from the candidate countries in this group, unless (1) we find that none of them are significant producers of comparable merchandise or provide adequate and reliable sources of publicly available factor price data, or (2) there is a compelling reason not to, even if condition (1) above does not hold and some degree of comparability of the level of economic development or the extent of production of comparable merchandise must be sacrificed. These conditions (2) reflect the fact that the two statutory requirements for a surrogate country must be satisfied only "to the extent possible,"⁴¹ and concerns about the valuation of special or unique FOPs can outweigh the economic development comparability requirement.⁴²

³⁹ See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Preliminary Results of the Antidumping Duty Administrative Review and New Shipper Review; 2011-2012, 78 FR 55676 (September 11, 2013) and corresponding Preliminary Decision Memorandum at 13, unchanged in Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and New Shipper Review; 2011-2012, 79 FR 19053 (April 7, 2014).

⁴⁰ Id.

⁴¹ See Section 773(c)(4) of the Act.

⁴² See Surrogate Country Memo.

In the context of the second caveat, Indonesia's *per capita* GNI places it at a level of economic development at a lower and, thus, less comparable level of economic development than that represented by the six countries on the initial surrogate country candidate list.

All parties only placed Indonesian SVs on the record.⁴³ The annual GNI levels for the list of countries on the surrogate country list ranged from US\$ 3,960 to US\$ 9,060. The GNI for Indonesia, with GNI of US\$ 3,580, is outside the range of highest and lowest GNIs among the countries which the Department has identified as economically comparable to the PRC. Because Indonesia's GNI is below Ukraine's GNI, the country with the lowest GNI on the surrogate country list, we find Indonesia to be economically less comparable to the countries on the surrogate country list, and likewise economically less comparable to the PRC.

Although interested parties have argued that Indonesia should be selected as the surrogate country, they have provided no evidence to demonstrate that Indonesia is better suited to value the FOPs for citric acid than the countries identified in the Surrogate Country Memo, *i.e.*, Bulgaria, Ecuador, Romania, South Africa, Thailand and Ukraine. In Fresh Garlic from the PRC, the Department selected a country outside of those originally identified as surrogate countries because the data from the outlier country was better suited to the particular physical characteristics of the subject merchandise, *i.e.*, garlic bulbs.⁴⁴ However, no party has presented evidence in this case to demonstrate that Indonesian surrogate value data are better suited to value the physical characteristics of citric acid. In addition, given that Indonesia is less economically comparable than the countries identified in the Surrogate Country Memo and given that there is no evidence that Indonesian is better suited to value citric acid, we are not persuaded that we should deviate from the countries originally identified in the Surrogate Country Memo.

Additionally, we note that although parties submitted surrogate values as late as May 1, 2015, one month before the preliminary results deadline, they have only submitted Indonesian surrogate values. Therefore, because parties did not submit surrogate value data pertaining to other countries identified in the Surrogate Country Memo, we did not have an opportunity to analyze such data. Moreover, we did not have time to independently research countries identified in the Surrogate Country Memo.

⁴³ See Letter from Petitioners to the Department, regarding "Citric Acid And Certain Citrate Salt from the People's Republic of China: Submission Of Surrogate Value Information," dated January 2, 2015; see also Letter from Taihe to the Department, regarding "Citric Acid and Citrate Salt from the People's Republic of China: Rebuttal Surrogate Values," dated January 12, 2015; see also Letter from RZBC to the Department, regarding "Citric Acid and Citrate Salts from the People's Republic of China: Submission of Surrogate Values," dated February 6, 2015; see also Letter from Taihe to the Department, regarding "Citric Acid and Citrate Salt from the People's Republic of China: Surrogate Values," dated February 6, 2015; see also Letter from Taihe to the Department, regarding "Citric Acid and Citrate Salt from the People's Republic of China: Final Surrogate Value Submission," dated May 1, 2015.

⁴⁴ See Fresh Garlic From the People's Republic of China: Preliminary Results of the New Shipper Review of Jinxiang Merry Vegetable Co., Ltd. and Cangshan Qingshui Vegetable Foods Co., Ltd., 79 FR 28895 (May 20, 2014) and corresponding Preliminary Decision Memorandum at 7-8, unchanged in Fresh Garlic From the People's Republic of China: Final Results of the Semiannual Antidumping Duty New Shipper Review of Jinxiang Merry Vegetable Co., Ltd. and Cangshan Qingshui Vegetable Foods Co., Ltd.; 2012-2013, 79 FR 62103 (October 16, 2014) and corresponding Issues and Decision Memorandum at Comment 1 ("Fresh Garlic from the PRC").

Use of Facts Otherwise Available

Section 776(a) of the Tariff Act of 1930, as amended (the Act), provides that the Department will apply “facts otherwise available” if, *inter alia*, necessary information is not available on the record or an interested party: 1) Withholds information that has been requested by the Department; 2) fails to provide such information within the deadlines established, or in the form or manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; 3) significantly impedes a proceeding; or 4) provides such information, but the information cannot be verified.

In the instance, we find that applying facts available for the preliminary results is warranted because we do not have the necessary information on the record to select an appropriate surrogate country with which to value the respondents’ factors of production. All parties recommended Indonesia, a country deemed economically less comparable to the PRC as explained above, as the surrogate country and only submitted Indonesian SVs. Parties have not explained why countries on the surrogate country list, or at a minimum, countries within the highest and lowest GNIs reflected in the surrogate country list, are inappropriate choices. Moreover, parties have not demonstrated why we should depart from the surrogate country list and select Indonesia. We are therefore unable to select a surrogate country at the time of the preliminary results. Therefore, we are applying neutral facts available and assigning RZBC and Taihe their current cash deposit rates for these preliminary results. We obtained the current cash deposit rates from each respondent’s most recent administrative review in which the respondent participated, as reflected in the final results Federal Register notices.⁴⁵

However, we intend to seek appropriate surrogate country and surrogate value data following these preliminary results. We request that interested parties submit surrogate country and SV data from a country or countries identified in the Surrogate Country Memo by close of business on June 15, 2015. Rebuttal comments and rebuttal surrogate value data will be due by close of business on June 22, 2015. The Department may also conduct its own research to obtain such data. We intend to issue post-preliminary results addressing this issue.

⁴⁵ See Citric Acid and Certain Citrate Salts From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2012–2013, 79 FR 65182 (November 3, 2014) (Taihe) ; see also Citric Acid and Certain Citrate Salts From the People’s Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012, 79 FR 101 (January 2, 2014) (RZBC).

CONCLUSION

We recommend applying the above methodology for these preliminary results.

✓

Agree

Disagree

Ronald K Lorentzen

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

June 1, 2015

Date