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DEPARTMENT OF COMMERCE

International Trade Administration

C-570-999

Countervailing Duty Investigation of 1,1,1,2 Tetrafluoroethane from the People's Republic of China: Final Affirmative Countervailing Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the "Department") published the Preliminary Determination of the countervailing duty ("CVD") investigation of 1,1,1,2 tetrafluoroethane ("tetrafluoroethane") from the People's Republic of China ("PRC") on April 18, 2014.¹ The Department determines that countervailable subsidies are being provided to producers and exporters of tetrafluoroethane from the PRC. For information on the estimated subsidy rates, see the "Suspension of Liquidation" section of this notice. The period of investigation is January 1 2012 – December 31, 2012.

DATES: Effective Date: (Insert date of publication in the Federal Register).

FOR FURTHER INFORMATION CONTACT: Katie Marksberry or Josh Startup, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; Phone: 202-482-7906, or 202-482-5260, respectively.

¹ See Countervailing Duty Investigation of 1,1,1,2 Tetrafluoroethane from the People's Republic of China: Preliminary Determination and Alignment of Final Determination with Final Antidumping Determination, 79 FR 21895 (April 18, 2014) ("Preliminary Determination").

SUPPLEMENTARY INFORMATION:

Background

The Department published the Preliminary Determination on April 18, 2014, additionally, the Department published the Amended Preliminary Determination on May 30, 2014.² On July 25, 2014, the Department released a post-preliminary determination.³ Between July 29 and August 12, 2014, we conducted a verification of the questionnaire responses of the Zhejiang Quhua Fluor-Chemistry Co., Ltd., and its cross-owned affiliates' (collectively "Juhua Group"), Sinochem Environmental Protection Chemicals (Taicang) Co., Ltd., and its cross-owned affiliates' (collectively "Sinochem"), Jiangsu Bluestar Green Technology Co., Ltd ("Bluestar"), and T.T. International Co., Ltd. ("T.T. International"). Between September 2, 2014 and September 8, 2014, interested parties submitted case and rebuttal briefs. A full discussion of the issues raised by parties for this final determination may be found in the I&D Memo.⁴ The I&D Memo is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"). IA ACCESS is available to registered users at <http://iaaccess.trade.gov>, and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the I&D Memo can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed I&D Memo and the electronic version are identical in content.

² See id.; see also Countervailing Duty Investigation of 1,1,1,2 Tetrafluoroethane from the People's Republic of China: Amended Preliminary Determination, 79 FR 31088 (May 30, 2014) ("Amended Preliminary Determination").

³ See Memorandum, from James C. Doyle, Director, Office V, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, Re: Post-Preliminary Analysis of Countervailing Duty Investigation: 1,1,1,2 Tetrafluoroethane from the PRC, dated July 25, 2014 ("Post-Prelim Determination").

⁴ See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Countervailing Duty Investigation of 1,1,1,2 Tetrafluoroethane from the People's Republic of China: Issues and Decision Memorandum for the Final Determination," dated concurrently with this notice ("I&D Memo").

Scope of the Investigation

The product subject to this investigation is 1,1,1,2-Tetrafluoroethane, R-134a, or its chemical equivalent, regardless of form, type, or purity level. The chemical formula for 1,1,1,2-tetrafluoroethane is $\text{CF}_3\text{-CH}_2\text{F}$, and the Chemical Abstracts Service (“CAS”) registry number is CAS 811-97-2.

1,1,1,2-Tetrafluoroethane is sold under a number of trade names including Klea 134a and Zephex 134a (Mexichem Fluor); Genetron 134a (Honeywell); Suva 134a, Dymel 134a, and Dymel P134a (DuPont); Solkane 134a (Solvay); and Forane 134a (Arkema). Generically, 1,1,1,2-tetrafluoroethane has been sold as Fluorocarbon 134a, R-134a, HFC-134a, HF A-134a, Refrigerant 134a, and UN3159.

Merchandise covered by the scope of this investigation is currently classified in the Harmonized Tariff Schedule of the United States (“HTSUS”) at subheading 2903.39.2020. Although the HTSUS subheading and CAS registry number are provided for convenience and customs purposes, the written description of the scope is dispositive.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the I&D Memo. A list of the issues that parties raised, and to which we responded in the I&D Memo, is attached to this notice as an Appendix.

Use of Adverse Facts Available

The Department notes that, in making these findings, we relied, in part, on facts available and, because one or more respondents did not act to the best of their ability to respond to the Department’s requests for information, we drew an adverse inference where appropriate in

selecting from among the facts otherwise available.⁵ For further information, see “Use of Facts Otherwise Available and Adverse Inferences” in the I&D Memo.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i) of the Act, we calculated a rate for each company respondent. Section 705(c)(5)(A)(i) of the Act states that, for companies not individually investigated, we will determine an “all others” rate equal to the weighted-average countervailable subsidy rates established for exporters and producers individually investigated, excluding any zero and de minimis countervailable subsidy rates, and any rates determined entirely under section 776 of the Act.

In accordance with sections 703(d) and 705(c)(5)(A) of the Act, for companies not investigated, we apply an “all-others” rate, which is normally calculated by weighting the subsidy rates of the individual companies selected as respondents by those companies’ exports of the subject merchandise to the United States. Under section 705(c)(5)(A)(i) of the Act, the all-others rate should exclude zero and de minimis rates calculated for the exporters and producers individually investigated. Where the rates for the investigated companies are all zero or de minimis, section 705(c)(5)(A)(ii) of the Act instructs the Department to establish an all-others rate using “any reasonable method.” Notwithstanding the language of section 705(c)(5)(A)(i) of the Act, we have not calculated the “all-others” rate by weight averaging the rates of the two individually investigated respondents, because doing so risks disclosure of proprietary

⁵ See sections 776(a) and (b) of the Act.

information. Therefore, and consistent with the Department’s practice, for the “all-others” rate, we calculated a simple average of the two mandatory respondents’ rates.⁶

We determine the total estimated net countervailable subsidy rates to be:

Company	Subsidy Rate
T.T. International Co., Ltd.	22.75 percent
JUHUA (including Zhejiang Quhua Fluor-Chemistry Co., Ltd., and other Juhua Stock Companies)	5.71 percent
Jiangsu Bluestar Green Technology Co., Ltd.	1.87 percent
All Others	14.23 percent

As a result of our Preliminary Determination, and pursuant to section 703(d) of the Act, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of merchandise under consideration from the PRC that were entered or withdrawn from warehouse, for consumption on or after April 18, 2014, the date of publication of the Preliminary Determination in the Federal Register. In accordance with section 703(d) of the Act, we issued instructions to CBP to discontinue the suspension of liquidation for CVD purposes for subject merchandise entered, or withdrawn from warehouse, on or after August 16, 2014, but to continue the suspension of liquidation of all entries from April 18, 2014, through August 15, 2014.

If the U.S. International Trade Commission (“ITC”) issues a final affirmative injury determination, we will issue a CVD order and reinstate the suspension of liquidation under section 706(a) of the Act and will require a cash deposit of estimated CVDs for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties

⁶ See, e.g., Countervailing Duty Investigation of Chlorinated Isocyanurates from the People’s Republic of China: Preliminary Determination and Alignment of Final Determination With Final Antidumping Determination, 79 FR 10097 (February 24, 2014). We did not include Bluestar in the “all-others” rate because it was not a mandatory respondent.

deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (“APO”), without the written consent of the Assistant Secretary for Enforcement and Compliance.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: October 14, 2014

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Appendix – Issues and Decision Memorandum

1. Whether Loans Provided by Banks Other Than the “Big Four” Are Countervailable
2. Whether the Department is Properly Countervailing Loans to Companies Producing a Disfavored Product
3. Whether AFA is Warranted With Regard to the Fluorospar for LTAR Program & Whether the Program is Countervailable
4. Whether Partial AFA is Warranted For the Mining Rights for LTAR Program
5. Whether the Department Should Calculate a Separate Combination Rate for Weitron
6. Whether the Department Correctly Treated the Tax and VAT Programs as Recurring Subsidies
7. Bluestar’s Minor Corrections With Regard to Electricity
8. Whether the Department Correctly Calculated the Electricity Benchmark
9. Whether the Department Correctly Included Purchases Made for Trading Purchases in its Fluorspar Calculation for JUHUA
10. Whether the Department Correctly Included Purchases Made From Trading Companies in its Fluorspar Calculation for JUHUA
11. Whether Certain Types of Financing are Countervailable
12. Whether the Department Used the Correct Denominator for Juhua Mining
13. Whether the Department Correctly Attributed Subsidies for Sinochem Taicang
14. Whether the Department Correctly Calculated the Benchmark for Loan Programs
15. Whether the Department Double Counted Loans Received by Sinochem Lantian
16. Whether the Department Correctly Calculated the Acidspar Benchmark
17. Whether the Department Should Cumulate the Subsidy Rates of Three AHF Suppliers to Sinochem
18. Whether the Attribution of Subsidies Received by Authorities is a Departure from Department Practice and Results in Double Counting of Subsidy Benefits
19. Whether the Department Properly Rejected Sinochem’s August 1, 2014, Submission as Untimely
20. Whether the Department Should Apply the Program-Wide Change Rule and Not Calculate a Subsidy Rate for the Two-Free Three-Half Program

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