



DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-570-045

1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less Than Fair Value, and Postponement of Final Determination

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

SUMMARY: The Department of Commerce ("Department") preliminarily determines that 1-Hydroxyethylidene-1, 1-Diphosphonic Acid ("HEDP") from the People's Republic of China ("PRC") is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Tariff Act of 1930, as amended ("the Act"). The period of investigation ("POI") is July 1, 2015 through December 31, 2015. The estimated weighted-average dumping margins are shown in the "Preliminary Determination" section of this notice. Interested parties are invited to comment on this preliminary determination.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Omar Qureshi or Kenneth Hawkins, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5307 or (202) 482-6491, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the notice of initiation of this investigation on April 28, 2016.¹ For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum, which is dated concurrently with and hereby adopted by this notice.² A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS"). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is HEDP from the PRC. For a full description of the scope of this investigation, *see* the "Scope of the Investigation," in Appendix I.

¹ *See 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from People's Republic of China: Initiation of Less-Than-Fair-Value Investigation*, 81 FR 25377 (April 28, 2016) ("Initiation Notice").

² *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance "Decision Memorandum for the Preliminary Determination in the Antidumping Duty Investigation of 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from People's Republic of China," dated concurrently with and hereby adopted by this notice ("Preliminary Decision Memorandum").

Scope Comments

In accordance with the preamble to the Department's regulations,³ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁴ Certain interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. For a summary of the product coverage comments and rebuttal responses submitted to the record for this preliminary determination, and accompanying discussion and analysis of all comments timely received, *see* the Preliminary Decision Memorandum.⁵

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. We calculated export prices and constructed export prices in accordance with section 772 of the Act. Because the PRC is a non-market economy within the meaning of section 771(18) of the Act, we calculated normal value ("NV") in accordance with section 773(c) of the Act. In addition, the Department relied on adverse facts available under sections 776(a) and (b) of the Act. Specifically, the Department did not receive timely responses to its Q&V questionnaire or separate rate applications from numerous PRC exporters and/or producers of merchandise under consideration that were named in the Petition and to whom the Department issued Q&V questionnaires.⁶ Because non-responsive PRC companies have not demonstrated that they are eligible for separate rate status, the Department considers them to be part of the PRC-wide entity.⁷ For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.

³ *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

⁴ *See Initiation Notice*, 81 FR 25377.

⁵ *See Preliminary Decision Memorandum*.

⁶ *See Q&V Delivery Confirmation Memo*.

⁷ *See Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2013-2014*, 80 FR 75966 (December 7, 2015) and accompanying Issues and Decision Memorandum at Comment 1.

Combination Rates

In the *Initiation Notice*, the Department stated that it would calculate combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.⁸

Preliminary Determination

The Department preliminarily determines that the following weighted-average dumping margins exist during the POI:

Producer	Exporter	Weighted-Average Dumping Margin
Nanjing University of Chemical Technology Changzhou Wujin Water Quality Stabilizer Factory	Nanjing University of Chemical Technology Changzhou Wujin Water Quality Stabilizer Factory and Nantong Uniphos Chemicals Co., Ltd. (collectively, “WW Group”)	179.97
Shandong Taihe Water Treatment Technologies Co., Ltd.	Shandong Taihe Chemicals Co., Ltd. (“Taihe”)	137.61
Henan Qingshuiyuan Technology Co., Ltd.	Henan Qingshuiyuan Technology Co., Ltd. (“Qingshuiyuan”)	168.95
Jianghai Environmental Protection Co., Ltd.	Jianghai Environmental Protection Co., Ltd. (“Jianghai”)	168.95
PRC-Wide Entity		179.97

Non-Selected Separate Rate

In calculating rates for non-individually investigated respondents in the context of non-market economy cases, the Department looks to section 735(c)(5)(A)-(B) of the Act, which

provides instructions for calculating the all-others rate in an investigation. Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be equivalent to the weighted average of the estimated weighted-average dumping margins calculated for exporters and producers individually investigated, excluding any margins that are zero, *de minimis*, or based entirely on facts available. Section 735(c)(5)(B) of the Act provides that where all individually investigated exporters or producers receive rates that are zero, *de minimis*, or based entirely on facts available, then the Department may use “any reasonable method” to establish the all-others rate for those companies not individually investigated.

Apart from the mandatory respondents in this investigation, two other PRC exporters of the subject merchandise during the POI established entitlement to a separate rate.⁹ Thus, separate rates are being assigned in this segment to Jianghai and Qingshuiyuan. There currently exist no individually investigated respondents that have failed to cooperate in this investigation, and there are no zero or *de minimis* margins. Therefore, we are preliminarily determining the separate rate for non-selected companies (Jianghai and Qingshuiyuan) based on a weighted-average of the calculated rates determined for the mandatory respondents,¹⁰ in accordance with section 735(c)(5)(A) of the Act.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, the Department will direct U.S. Customs

⁸ See Enforcement and Compliance’s Policy Bulletin No. 05.1, regarding, “Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,” (April 5, 2005) (Policy Bulletin 05.1), available on the Department’s Web site at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

⁹ See Preliminary Decision Memo.

¹⁰ We have calculated (A) a weighted-average of the dumping margins calculated for the mandatory respondents; (B) a simple average of the dumping margins calculated for the mandatory respondents; and (C) a weighted-average of the dumping margins calculated for the mandatory respondents using each company’s publicly-ranged values for the merchandise under consideration. We would compare (B) and (C) to (A) and select the rate closest to (A) as the most appropriate rate for all other companies. See *Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010).

and Border Protection (CBP) to suspend liquidation of all entries of HEDP from the PRC, as described in the “Scope of the Investigation” section, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*.

Pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit¹¹ equal to the weighted-average amount by which NV exceeds U.S. price as follows: (1) the cash deposit rate for the exporter/producer combination listed in the table above will be the rate identified for that combination in the table; (2) for all combinations of PRC exporters/producers of merchandise under consideration that have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate established for the PRC-wide entity; and (3) for all non-PRC exporters of the merchandise under consideration which have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate applicable to the PRC exporter/producer combination that supplied that non-PRC exporter. These suspension of liquidation instructions will remain in effect until further notice.

We normally adjust antidumping duty cash deposit rates by the amount of export subsidies, where appropriate. In the companion CVD investigation, we preliminarily found that the WW Group did not receive export subsidies.¹² Therefore, no offset to the WW Group’s cash deposit rate for export subsidies is necessary.¹³ With respect to Taihe, because its countervailing duty rate in the companion investigation included an amount for export subsidies, an offset of

¹¹ See *Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations*, 76 FR 61042 (October 3, 2011).

¹² See *Countervailing Duty Investigation of 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People’s Republic of China: Preliminary Affirmative Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, 81 FR 62084 (September 8, 2016) (“*HEDP CVD Prelim*”), and accompanying Preliminary Decision Memorandum at 13-19.

¹³ *Id.*

0.28 percent will be made to its cash deposit rate.¹⁴ With respect to the separate-rate companies, we find that an export subsidy adjustment of 0.14 percent to the cash deposit rate is warranted because this is the export subsidy rate included in the countervailing duty “all others” rate to which the separate-rate companies are subject. For the PRC-wide entity, which received an adverse facts available rate in this preliminary determination, as an extension of the adverse inference found necessary pursuant to section 776(b) of the Act, the Department has not adjusted the PRC-wide entity’s AD cash deposit rate by the lowest export subsidy rate determined for any party in the companion CVD proceeding, because the lowest export subsidy rate determined in the companion CVD proceeding is 0.00 percent.^{15, 16}

Pursuant to section 777A(f) of the Act, we normally adjust preliminary cash deposit rates for estimated domestic subsidy pass-through, where appropriate. However, in this case there is no basis to grant a domestic subsidy pass-through adjustment.¹⁷

Disclosure and Public Comment

We intend to disclose the calculations performed to interested parties in this proceeding within five days of the date of announcement of this preliminary determination in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs, rebuttal briefs, and hearing requests.¹⁸ For a schedule of the deadlines for filing case briefs, rebuttal briefs, and hearing requests, *see* the Preliminary Decision Memorandum at Section IX.

¹⁴ *Id.*

¹⁵ *See, e.g., Certain Passenger Vehicle and Light Truck Tires From the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value; Preliminary Affirmative Determination of Critical Circumstances; In Part and Postponement of Final Determination*, 80 FR 4250 (January 27, 2015), and accompanying Issues and Decision Memorandum at 35.

¹⁶ *See HEDP CVD Prelim* at 81 FR 62085.

¹⁷ *See Preliminary Decision Memorandum* at 28-29.

¹⁸ *See* 19 CFR 351.309(c)-(d), 19 CFR 351.310(c).

International Trade Commission (“ITC”) Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our affirmative preliminary determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.¹⁹

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by Petitioners. 19 CFR 351.210(e)(2) requires that requests by respondents for postponement of a final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On October 19 and 20, 2016, pursuant to 19 CFR 351.210(b) and (e), the WW Group and Taihe, respectively, requested that, contingent upon an affirmative preliminary determination of sales at LTFV, the Department postpone the final determination and that provisional measures be extended to a period not to exceed six months.²⁰

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative; (2) the requesting exporters account for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for

¹⁹ See section 735(b)(2) of the Act.

²⁰ See the WW Group’s Letter (October 19, 2016); Taihe’s Letter (October 20, 2016).

denial exist, we are postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will make our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.²¹

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

_____ October 27, 2016 _____
Date

²¹ *See also* 19 CFR 351.210(e).

Appendix I

Scope of the Investigation

The merchandise covered by this investigation includes all grades of aqueous acidic (non-neutralized) concentrations of 1-hydroxyethylidene-1,1-diphosphonic acid (HEDP), also referred to as hydroxyethylidenediphosphonic acid, hydroxyethanediphosphonic acid, acetodiphosphonic acid, and etidronic acid. The CAS (Chemical Abstract Service) registry number for HEDP is 2809-21-4.

The merchandise subject to this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 2931.90.9043. It may also enter under HTSUS subheadings 2811.19.6090 and 2931.90.9041. While HTSUS subheadings and the CAS registry number are provided for convenience and customs purposes only, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum:

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- III. PERIOD OF INVESTIGATION
- IV. POSTPONEMENT OF FINAL DETERMINATION AND EXTENSION OF PROVISIONAL MEASURES
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- XIV. RECOMMENDATION

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