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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-045]

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

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

SUMMARY: The Department of Commerce (Department) 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). The final weighted-average dumping margins for the investigation on HEDP from the PRC are listed in the "Final Determination Margins" section of this notice.

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

On November 4, 2016, the Department published its *Preliminary Determination*.¹ We invited interested parties to comment on our *Preliminary Determination* of sales at LTFV. For a list of the parties that filed case and rebuttal briefs, *see* the Issues and Decision Memorandum.²

Period of Investigation

The period of investigation (POI) is July 1, 2015, through December 31, 2015. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition, which was January 2016.³

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 Chemical Abstract Service (CAS) 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

¹ *See* 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, 81 FR 76916 (November 4, 2016) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

² *See* Memorandum from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, "Issues and Decision Memorandum for the Final Determination of the Less-Than-Fair-Value Investigation of 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China," dated concurrently with this notice (Issues and Decision Memorandum).

³ *See* 19 CFR 351.204(b)(1).

the CAS registry number are provided for convenience and customs purposes only, the written description of the scope of this investigation is dispositive.

Analysis of Comments Received

We addressed all issues raised by parties in case and rebuttal briefs in the Issues and Decision Memorandum.⁴ The Appendix to this notice includes a list of the issues which the parties raised and to which the Department responded in the Issues and Decision Memorandum. The Issues and 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 <http://access.trade.gov>. The Issues and Decision Memorandum is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum is available at <http://enforcement.trade.gov/frn/index.html>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Verification

As provided in section 782(i) of the Act, in December 2016, the Department conducted verification of the information submitted by Shandong Taihe Chemical Co., Ltd. (Taihe), Nanjing University of Chemical Technology Changzhou Wujin Water Quality Stabilizer Factory and Nantong Uniphos Chemicals Co., Ltd. (collectively, WW Group) for use in the final

⁴ See Issues and Decision Memorandum.

determination. We issued our verification reports on January 19, 2017.⁵ The Department used standard verification procedures, including examination of relevant accounting and production records and original source documents provided by respondents.⁶

Changes Since the Preliminary Determination

Based on the Department's verifications of Taihe and WW Group, we made changes from the *Preliminary Determination*. For WW Group, the Department classified the company's joint-product as a co-product. Additionally, we made a change to the calculation of inventory carrying costs and irrecoverable value-added tax.

For Taihe, the Department did not use a net realizable value calculation in Taihe's margin calculation. Additionally, for Taihe, we included inventory carrying costs for all sales where warehousing expenses were reported. The Department also included indirect selling expenses in Taihe's margin calculation.

The Department also made the necessary calculation adjustment to international freight, domestic brokerage, and domestic inland freight where the expenses are calculated on a gross weight basis for both Taihe and WW Group. Lastly, the Department made the necessary calculation adjustment for marine insurance surrogate value for Taihe and WW Group.

PRC-Wide Entity

As explained in the *Preliminary Determination*, we are applying a rate based entirely on adverse facts available (AFA) to the PRC-wide entity. The Department did not receive timely responses to its quantity and value (Q&V) questionnaire or separate rate applications from

⁵ See the Department's two memoranda regarding: "Verification of the Questionnaire Responses of Shandong Taihe Chemical Co., Ltd. in the Antidumping Investigation of HEDP from the People's Republic of China" (January 19, 2017) (Taihe Verification Report); and "Verification of the Questionnaire Responses of the WW Group in the Antidumping Investigation of 1-Hydroxyethylidene-1, 1-Diphosphonic Acid ("HEDP") from the People's Republic of China" (January 19, 2017) (WW Group's Verification Report).

⁵ *Id.*

⁶ *Id.*

certain PRC exporters and/or producers of subject merchandise that were named in the petition and to which the Department issued Q&V questionnaires.⁷ As these non-responsive PRC companies did not demonstrate that they are eligible for separate rate status, the Department continues to consider them to be part of the PRC-wide entity. Further, because these non-responsive companies withheld requested information, significantly impeded the proceeding, and failed to cooperate to the best of their abilities, we are basing the PRC-wide entity rate on AFA.

PRC-Wide Rate

In selecting the AFA rate for the PRC-wide entity, the Department's practice is to select a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.⁸ Specifically, it is the Department's practice to select, as an AFA rate, the higher of: (a) the highest dumping margin alleged in the petition; or, (b) the highest calculated dumping margin of any respondent in the investigation.⁹ As AFA, the Department has assigned to the PRC-wide entity the rate of 184.01 percent, which is the highest calculated dumping margin of any respondent in the investigation.

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 Tariff Act of 1930, (as amended) (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

⁷ See *Preliminary Determination*, and accompanying Preliminary Decision Memorandum at 16-17 (Separate Rate).

⁸ See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Purified Carboxymethylcellulose from Finland*, 69 FR 77216 (December 27, 2004), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethylcellulose from Finland*, 70 FR 28279 (May 17, 2005).

⁹ See, e.g., *Certain Stilbenic Optical Brightening Agents from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 77 FR 17436, 17438 (March 26, 2012); *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products from the People's Republic of China*, 65 FR 34660 (May 31, 2000), and accompanying Issues and Decision Memorandum.

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.¹⁰ Thus, separate rates are being assigned in this segment to Jianghai Environmental Protection Co., Ltd. (Jianghai) and Henan Qingshuiyuan Technology Co., Ltd. (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 continuing to determine the separate rate for non-selected companies (Jianghai and Qingshuiyuan) based on a weighted average of the calculated rates determined for the mandatory respondents,¹¹ in accordance with section 735(c)(5)(A) of the Act.

Final Determination

The Department determines that the estimated final weighted-average dumping margins are as follows:

¹⁰ See *Preliminary Decision*.

¹¹ 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 compared (B) and (C) to (A) and selected the rate closest to (A). Accordingly, we selected (C) 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).

| Producer | Exporter | Weighted-Average Dumping Margin (Percent) | Cash Deposit Rate (Percent) |
|--|--|---|-----------------------------|
| 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. | 184.01 | 184.01 |
| Shandong Taihe Water Treatment Technologies Co., Ltd. | Shandong Taihe Chemicals Co., Ltd. | 167.58 | 167.28 |
| Henan Qingshuiyuan Technology Co., Ltd. | Henan Qingshuiyuan Technology Co., Ltd. | 179.76 | 179.46 |
| Jianghai Environmental Protection Co., Ltd. | Jianghai Environmental Protection Co., Ltd. | 179.76 | 179.46 |
| PRC-Wide Entity | | 184.01 | 184.01 |

Disclosure

We intend to disclose to parties the calculations performed in this proceeding within five days of any public announcement of this notice in accordance with 19 CFR 351.224 (b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue 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 November 4, 2016, the date of publication of the *Preliminary Determination* notice in the *Federal Register*.

Pursuant to section 735(c)(1)(B)(ii) of the Act, the Department will instruct CBP to

require a cash deposit¹² 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 have found that the WW Group did not receive export subsidies.¹³ Therefore, no offset to the WW Group's cash deposit rate for export subsidies is necessary.¹⁴ With respect to Taihe, because its countervailing duty rate in the companion investigation included an amount for export subsidies, an offset of 0.30 percent will be made to its cash deposit rate.¹⁵ With respect to the separate-rate companies, we find that an export subsidy adjustment of 0.30 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

¹² 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).

¹³ See *Countervailing Duty Investigation of 1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China: Final Affirmative Determination and Alignment of Final Determination with Final Antidumping Duty Determination*, filed concurrently with this notice.

¹⁴ *Id.*

¹⁵ *Id.*

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.^{16, 17}

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.¹⁸

International Trade Commission Notification

In accordance with section 735(d) of the Act, we notified the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. As the Department's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of HEDP for sale from the PRC, or sales (or the likelihood of sales) for importation, of HEDP from the PRC. If the ITC determines that such injury does not exist, this proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

¹⁶ 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.

¹⁷ See *HEDP CVD Prelim* at 81 FR 62085.

¹⁸ See Preliminary Decision Memorandum at 28-29.

Return or Destruction of Proprietary Information

This notice also serves as a reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of propriety information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return or 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 sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: March 20, 2017.

Ronald K. Lorentzen,
Acting Assistant Secretary for Enforcement and Compliance.

Appendix – Issues and Decision Memorandum

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Company-Specific Issues: WW Group

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- IX. Conclusion