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DEPARTMENT OF COMMERCE

International Trade Administration

[A-549-833]

Citric Acid and Certain Citrate Salts from Thailand: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Critical Circumstances Determination, in Part, and Postponement of Final Determination and Extension of Provisional Measures

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that citric acid and certain citrate salts (citric acid) from Thailand are being, or are likely to be, sold in the United States at less than fair value (LTFV). The period of investigation (POI) is April 1, 2016, through March 31, 2017.

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

FOR FURTHER INFORMATION CONTACT: Joy Zhang (COFCO), George McMahon (Niran), or Cindy Robinson (Sunshine), AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1168, (202) 482-1167, or (202) 482-3797, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this

investigation on June 30, 2017.¹ On November 1, 2017, Commerce postponed the preliminary determination of this investigation and the revised deadline is now December 29, 2017.² For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.³ 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 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 Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is citric acid from Thailand. For a complete discussion of the scope of this investigation, *see* Appendix I.

¹ *See Citric Acid and Certain Citrate Salts from Belgium, Colombia, and Thailand: Initiation of Less-Than-Fair-Value Investigations*, 82 FR 29828 (June 30, 2017) (*Initiation Notice*) and accompanying Initiation Checklist.

² *See Citric Acid and Certain Citrate Salts from Belgium, Colombia, and Thailand: Postponement of Preliminary Determinations of Less-Than-Fair-Value Investigation*, 82 FR 50622 (November 1, 2017) (*Preliminary Postponement Notice*).

³ *See* Memorandum, "Decision Memorandum for the Preliminary Affirmative Antidumping Duty Determination, Preliminary Affirmative Critical Circumstances Determination, in Part, and Postponement of Final Determination and Extension of Provisional Measures in the Less-Than-Fair-Value Investigation of Citric Acid and Certain Citrate Salts from Thailand" dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

Scope Comments

In accordance with the preamble to Commerce's regulations,⁴ the *Initiation Notice* set aside a period for parties to raise issues regarding product coverage (*i.e.*, scope).⁵ Certain interested parties commented on the scope of this 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 Scope Decision Memorandum.⁶ Commerce is not preliminarily modifying the scope language as it appeared in the *Initiation Notice*.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Commerce has also calculated export and constructed export prices in accordance with section 772 of the Act. Normal value (NV) is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying the preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Affirmative Determination of Critical Circumstances, in Part

In accordance with section 733(e) of the Act and 19 CFR 351.206, Commerce preliminarily finds that critical circumstances exist for one of the mandatory respondents, Niran, but do not exist for COFCO, Sunshine and all-other producers and/or exporters. For a full description of the methodology and results of Commerce's critical circumstances analysis, *see* the Preliminary Decision Memorandum.

⁴ *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁵ *See Initiation Notice*, 82 FR at 29836.

⁶ *See* Memorandum titled "Scope Comments Decision Memorandum for the Preliminary Determinations," dated December 1, 2017 (Preliminary Scope Decision Memorandum).

All-Others Rate

Sections 733(d)(1)(ii) and 735(c)(5)(A) of the Act provide that in the preliminary determination Commerce shall determine an estimated all-others rate for all exporters and producers not individually examined. This rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins determined entirely under section 776 of the Act.

In this investigation, Commerce calculated the all-others rate based on a weighted average of the estimated weighted-average dumping margins calculated for the three mandatory respondents: COFCO, Niran, and Sunshine, none of which are zero, *de minimis*, or based entirely on facts otherwise available. Commerce calculated the all-others' rate using a weighted-average of the estimated weighted-average dumping margins calculated for the examined respondents using each company's business proprietary data for the merchandise under consideration.⁷

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist:

Exporter/Producer	Estimated Weighted-Average Dumping Margin (percent)
COFCO Biochemical (Thailand) Co., Ltd. (COFCO)	15.73

⁷ For a complete analysis of the data, please *see* the All-Others Rate Calculation Memorandum dated concurrently with this notice.

Niran (Thailand) Co., Ltd. (Niran)	12.95
Sunshine Biotech International Co., Ltd. (Sunshine)	4.77
All-Others	10.55

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise, as described in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. Further, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) The cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Section 733(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the later of (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which notice of initiation of the investigation was published.

Commerce preliminarily finds that critical circumstances exist for imports of subject

merchandise produced or exported by Niran. In accordance with section 733(e)(2)(A) of the Act, the suspension of liquidation shall apply to unliquidated entries of shipments of subject merchandise from Niran that were entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice.

Commerce normally adjusts cash deposits for estimated antidumping duties by the amount of export subsidies countervailed in a companion countervailing duty (CVD) proceeding, when CVD provisional measures are in effect. Accordingly, where Commerce preliminarily made an affirmative determination for countervailable export subsidies, Commerce has offset the estimated weighted-average dumping margin by the appropriate CVD rate. However, in the companion CVD preliminary determination, Commerce has preliminarily determined that no countervailable subsidies are being provided to the production or exportation of subject merchandise and therefore, Commerce did not direct CBP to suspend liquidation of any such entries. Accordingly, we made no adjustment for the export subsidy offset to the estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, Commerce intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.⁸ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

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

⁸ See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of Commerce's regulations requires that a request by exporters for postponement of the final 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 November 29, 2017, pursuant to section 735(a)(2) of the Act and 19 CFR 351.210(e)(1), the petitioners requested that, if the preliminary determination in the above-referenced investigation is negative, Commerce postpone the final determination in accordance with 19 CFR § 351.210(b)(2)(i).⁹ On December 1, 2017, COFCO and Niran, and on December 4, 2017, Sunshine requested that, in the event of an affirmative preliminary determination, Commerce postpone the final determination, and that provisional measures be extended by the corresponding period of extension (*e.g.*, by an additional 60 days), which represents a period not to exceed six months.¹⁰

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and (e)(2), 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 denial exist, we are granting the respondents' request and are postponing the final determination until no later than 135 days after the publication of the preliminary determination notice in the *Federal Register*, and we are extending provisional measures from four months to a

⁹ See Letter from the petitioners titled, "Antidumping Duty Investigation of Citric Acid and Certain Citrate Salts from Thailand: Petitioners' Request for Postponement of Final Determination," dated November 29, 2017.

¹⁰ See Letter from COFCO and Niran titled, "Conditional Request for Extension of Final Determination," dated December 1, 2017; *see also* Letter from Sunshine titled, "Antidumping Duty Investigation of Citric Acid and Certain Citrate Salts from Thailand: Request for Postponement of Final Determination and Provisional Measures Period," dated December 4, 2017.

period not to exceed six months. Accordingly, Commerce will make its final determination no later than 135 days after the date of publication of this preliminary determination.

International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its affirmative preliminary determination. If the 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 Commerce's final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.¹¹

Notification to Interested Parties

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).

Dated: December 29, 2017.

Christian Marsh,
Deputy Assistant Secretary
for Enforcement and Compliance.

¹¹ See section 735(b)(2) of the Act.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation 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 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 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.

The scope 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.

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, if included in a mixture or blend, 3824.99.9295 of the HTSUS. Blends that include citric acid, sodium citrate, and

potassium citrate are classifiable under 3824.99.9295 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

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