

DEPARTMENT OF COMMERCE

International Trade Administration

[A-412-803]

Industrial Nitrocellulose From the United Kingdom; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review; Industrial Nitrocellulose from the United Kingdom.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on industrial nitrocellulose (INC) from the United Kingdom in response to a request by petitioner, Hercules Incorporated. This review covers exports of subject merchandise to the United States during the period July 1, 1996 through June 30, 1997.

We have preliminarily determined that sales have been made below normal value (NV). If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between the constructed export price (CEP) and the NV. Interested parties are invited to comment on these preliminary results. Parties who submit comments are requested to submit with each comment (1) a statement of the issue and (2) a brief summary of the comment.

EFFECTIVE DATE: August 7, 1998.

FOR FURTHER INFORMATION CONTACT: Gideon Katz or Maureen Flannery, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482-5255 or (202) 482-3020.

Applicable Statute and Regulations

Unless otherwise stated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise stated, all citations to the Department's regulations are references to the regulations as codified at 19 CFR Part 351 (62 FR 27296, May 19, 1997).

SUPPLEMENTARY INFORMATION:**Background**

The Department published in the **Federal Register** the antidumping duty order on INC from the United Kingdom on July 10, 1990 (55 FR 28270). On July 21, 1997, we published in the **Federal Register** (62 FR 38973) a notice of opportunity to request an administrative review of the antidumping duty order on INC from the United Kingdom covering the period July 1, 1996 through June 30, 1997.

In accordance with 19 CFR 351.221, petitioner requested that we conduct an administrative review of sales of subject merchandise made by respondent, Imperial Chemical Industries PLC (ICI). We published a notice of initiation of this antidumping duty administrative review on August 28, 1997 (62 FR 45622). Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of administrative reviews if it determines that it is not practicable to complete the review within the established time limit. The Department published a notice of extension of the time limit for the preliminary results in this case on February 17, 1998. See *Industrial Nitrocellulose from the United Kingdom: Notice of Extension of Time Limits for Preliminary Results of Antidumping Administrative Review*, 63 FR 7756 (February 17, 1998). The Department is conducting this administrative review in accordance with section 751(a) of the Act.

Scope of the Review

This review covers shipments of INC from the United Kingdom. INC is a dry, white, amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, which is produced from the reaction of cellulose with nitric acid. It is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. INC is currently classifiable under Harmonized Tariff Schedule (HTS) item number 3912.20.00. Although HTS subheadings are provided for convenience and Customs purposes, the written description of the scope of this order remains dispositive. The scope of the antidumping order does not include explosive grade nitrocellulose, which has a nitrogen content of greater than 12.2 percent.

This review covers sales of the subject merchandise manufactured by ICI and entered into the United States during the period July 1, 1996 through June 30, 1997.

Verification

As provided in section 782(i) of the Act, we verified information provided

by ICI using standard verification procedures, including on-site inspection of the manufacturer's facilities, examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the verification reports.

Constructed Export Price

Respondent reported U.S. sales as export price (EP) sales, claiming that, although an affiliated U.S. company, ICI Americas Inc. (ICIA), was involved in the sales process, ICIA's role involved no more than processing paperwork, and that all of ICI's U.S. sales were actually made in the United Kingdom.

We examined the facts of this case in light of the statute and our past practice regarding EP and CEP sales and have preliminarily determined that respondent's U.S. sales are properly classified as CEP sales. Section 772(b) of the Act defines CEP as "the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted * * *." (emphasis added).

Section 772(a) of the Act defines EP as "the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted * * *."

When sales are made prior to importation through an affiliated or unaffiliated U.S. sales agent to an unaffiliated customer in the United States, our practice is to examine several criteria in order to determine whether the sales are EP sales. Those criteria are: (1) whether the merchandise was shipped directly from the manufacturer to the unaffiliated U.S. customer; (2) whether this was the customary commercial channel between the parties involved; and (3) whether the function of the U.S. selling agent was limited to that of a "processor of sales-related documentation" and a "communications link" with the unaffiliated U.S. buyer. Where all three criteria are met, indicating that the activities of the U.S. selling agent are ancillary to the sale, the Department has classified the sales as EP sales. Where one or more of these conditions are not

met, indicating that the U.S. sales agent is substantially involved in the U.S. sales process, the Department has classified the sales in question as CEP sales. See, e.g., *Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Reviews*, 63 FR 13170 (March 18, 1998) wherein the Department determined that where a U.S. affiliate is involved in making a sale, it normally considers the sale to be a CEP transaction unless the record demonstrates that the U.S. affiliate's involvement in making the sale is incidental or ancillary (see, also, *Viscose Rayon Staple Fiber from Finland: Final Results of Antidumping Duty Administrative Review*, 63 FR 32820 (June 16, 1998)).

In the instant review, the fact that the subject merchandise was shipped directly from ICI to the unaffiliated U.S. customers and that this was the customary commercial channel between these parties is not disputed. However, ICI contracted a U.S. selling agent whose duties included sales solicitation and price negotiation. Discussion of these two functions in a public notice is not possible due to their proprietary nature. See U.S. Verification Report.

Because of ICI's agent's involvement in sales solicitation and price negotiation, we determine that ICI's U.S. selling agent is substantially involved in the sales process for INC. As indicated by our analysis of the third factor listed above, in this case, the function of the U.S. selling agent is not limited to that of a "processor of sales-related documentation" and a "communications link" with the unaffiliated U.S. buyer. See *U.S. Steel Group v. United States*, CIT Slip Op. 98-96 (July 7, 1998) (upholding the Department's CEP determination in *Certain Cut-to-Length Carbon Steel Plate from Germany: Final Results of Antidumping Administrative Review*, 62 FR 18390, which was largely based on the Department's discovery at verification that the U.S. importer was authorized to negotiate sales terms without prior approval from the exporter/producer).

Therefore, ICI's U.S. sales process does not satisfy all of the three criteria for EP treatment. Accordingly, we determine that ICI's U.S. sales are properly treated as CEP transactions. We calculated CEP as defined in section 772(b) of the Act. We based CEP on the packed, delivered prices to unaffiliated purchasers in the United States. We made adjustments for rebates. We made deductions for movement expenses, including international freight, other U.S. transportation expenses, marine

insurance, brokerage and handling, and U.S. customs duties, in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act, we deducted commissions for selling INC in the United States, credit expenses, and indirect selling expenses. Finally, we made an adjustment for the profit allocated to selling expenses incurred in the United States, in accordance with section 772(d)(3) of the Act.

Normal Value

Based on a comparison of the aggregate quantity of home market and U.S. sales, we determined that the quantity of foreign like product sold in the home market was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the price (exclusive of value-added tax (VAT)) at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade, and at the same level of trade as the CEP sale.

Under 19 CFR 351.403(c), we excluded sales to one affiliated customer in calculating NV because we determined that sales to this customer were not made at arm's length prices (i.e., at prices comparable to prices at which the firm sold identical merchandise to unaffiliated customers).

We based NV on packed, delivered prices to unaffiliated purchasers in the home market. We made adjustments, where applicable, in accordance with section 773(a)(6) of the Act. Where applicable, we made adjustments to home market price for billing adjustments, rebates, discounts, and inland freight. We also made a deduction for home market credit, pursuant to section 773(a)(6)(C)(iii) of the Act. We deducted home market indirect selling expenses, up to the amount of U.S. commissions. In order to adjust for differences in packing between the two markets, we increased home market price by U.S. packing costs and reduced it by home market packing costs. Prices were reported net of VAT and, therefore, no deduction for VAT was necessary.

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the United Kingdom at the same level of trade (LOT) as the CEP transactions. The NV LOT is that of the starting-price sales in the comparison market. The U.S. LOT is the level of the

constructed sale from the exporter to the importer.

To evaluate LOTs, we examined information regarding the distribution systems in both the U.S. and Canadian markets, including the selling functions, classes of customer, and selling expenses for each respondent. We determined that in this case the NV LOT was identical to the CEP LOT.

Price-to-Price Comparisons

Pursuant to section 777A(d)(2), we compared the CEPs of individual transactions to the monthly weighted-average prices of sales of the foreign like product.

Preliminary Results of the Review

As a result of our comparison of CEP and NV, we preliminarily determine that the following weighted-average dumping margin exists:

Manufacturer/exporter	Period	Margin (per-cent)
Imperial Chemical Industries PLC	7/1/96-6/30/97	16.48

Parties to the proceeding may request disclosure within 5 business days of the date of publication of this notice. Any interested party may request a hearing within 30 days of publication. Pursuant to 19 CFR 351.310, any hearing, if requested, will be held 2 days after the date rebuttal briefs are due, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 5 days after the time limit for filing the case brief. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, not later than 120 days after the date of publication of this notice.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisal instructions directly to the Customs Service.

Furthermore, the following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of INC from the United Kingdom entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(c) of the Act: (1) the cash deposit rate for the reviewed

company will be the rate established in the final results of this review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original investigation of sales at less than fair value (LTFV) or a previous review, the cash deposit will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this or a previous review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be 11.13 percent, the "all others" rate established in the LTFV investigation (55 FR 21058, May 22, 1990).

These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.213.

Dated: July 30, 1998.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 98-21229 Filed 8-6-98; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-475-818]

Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce is conducting an administrative review of the antidumping order on certain pasta from Italy. This review covers eight producers and/or exporters of the subject merchandise. The period of

review ("POR") is January 19, 1996, through June 30, 1997.

We have preliminarily found that, for certain producers and/or exporters, sales of the subject merchandise have been made below normal value. If these preliminary results are adopted in our final results of this review, we will instruct the Customs Service to assess antidumping duties equal to the difference between the export price or constructed export price and the normal value.

EFFECTIVE DATE: August 7, 1998.

FOR FURTHER INFORMATION CONTACT: Edward Easton or John Brinkmann, Office 2 AD/CVD Enforcement, Group I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, D.C. 20230; telephone: (202) 482-1777 or (202) 482-5288, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's ("the Department's") regulations are to the regulations codified at 19 CFR Part 351, as published in the **Federal Register** on May 19, 1997 (62 FR 27296).

Case History

On July 24, 1996, the Department published in the **Federal Register** the antidumping duty order on certain pasta ("pasta") from Italy (61 FR 38547). On July 21, 1997, we published in the **Federal Register** the notice of "Opportunity to Request an Administrative Review" of this order, for the POR (62 FR 38973).

The following producers and/or exporters of pasta from Italy requested a review in accordance with 19 CFR 351.213(b)(2): (1) Rummo S.p.A. Molino e Pastificio ("Rummo"); (2) F. Ili De Cecco di Filippo Fara S. Martino S.p.A. ("De Cecco"); (3) La Molisana Industrie Alimentari S.p.A. ("La Molisana"); (4) Delverde Srl ("Delverde"); (5) Tamma Industrie Alimentari di Capitanata, SrL ("Tamma");¹ (6) Industria Alimentari Colavita S.p.A. ("Indalco"); and (7)

¹ During the antidumping investigation, the Department determined that Delverde and Tamma were affiliated parties within the meaning of section 771(33) of the Act and, moreover, that it was appropriate to "collapse" both companies into a single entity for the purpose of calculating an antidumping duty margin.

Petrini, S.p.A. ("Petrini"). Three of these seven companies, Petrini, Delverde, and Tamma, later withdrew their requests. See Partial Rescission of Antidumping Duty Administrative Review section, below.

On July 31, 1997, the petitioners requested a review of ten producers and/or exporters of pasta from Italy; however, on September 2, 1997, they withdrew their request for review of all of these companies except: (1) Arrighi S.p.A. Industrie Alimentari ("Arrighi"); (2) Barilla Alimentari S.R.L. ("Barilla"); (3) N. Puglisi & F. Industria Paste Alimentari S.p.A. ("Puglisi"); (4) La Molisana; (5) Pastificio Fratelli Pagani S.p.A. ("Pagani"); and (6) Rummo. See Partial Rescission of Antidumping Duty Administrative Review section, below.

On August 28, 1997, we published the notice of initiation of this antidumping duty administrative review (62 FR 45621) and on September 4, 1997, the Department issued the antidumping questionnaire² to counsel for the companies subject to review. After several extensions, the respondents submitted responses to sections A through C of the antidumping questionnaire on November 3 and 10, 1997. The Department issued its supplemental questionnaires in January, 1998. Responses to the supplemental questionnaires were received in March, 1998.

On October 20, 1997, World Finer Foods, Inc. ("World Finer Foods"), an importer of pasta produced by Arrighi, wrote to the Department to indicate that Arrighi had ceased exporting pasta to the United States and would not participate in the review. World Finer Foods indicated that it did not seek the return of the antidumping duty deposits it had already made on imports of Arrighi pasta, but that it could not afford additional antidumping duties. An officer of World Finer Foods met with Department officials on January 8, 1998, and offered to submit information concerning its purchases from Arrighi for the Department's examination. This information was submitted on March 10, 1998. On April 9, 1998, petitioners submitted a response indicating, among other things, that they believed the information submitted by World Finer Foods was inadequate for calculating an antidumping duty margin for Arrighi.

² Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the sales of the merchandise in all of its markets. Sections B and C request home market sales listings and U.S. sales listings, respectively. Section D requests information on the cost of production of the foreign like product and constructed value of the merchandise under investigation.