

[A-428-810]

High-Tenacity Rayon Filament Yarn From Germany; Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review, and Intent To Revoke Order

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

ACTION: Notice of initiation and preliminary results of changed circumstances antidumping duty administrative review, and intent to revoke order.

SUMMARY: In response to a request from the North American Rayon Corporation (petitioner and sole U.S. producer of high-tenacity rayon filament yarn), the Department of Commerce (the Department) is initiating a changed circumstances antidumping duty administrative review and issuing a notice of intent to revoke the antidumping duty order on high-tenacity rayon filament yarn from Germany. The petitioner also requested that this revocation be retroactive to June 1, 1995. Based on the fact that the petitioner has expressed no interest in the continuation of the antidumping duty order on high-tenacity rayon filament yarn produced in Germany, we intend to revoke this order.

EFFECTIVE DATE: March 26, 1997.

FOR FURTHER INFORMATION CONTACT: Matthew Blaskovich, 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) 482-5831.

SUPPLEMENTARY INFORMATION:**The Applicable Statute**

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 (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Background

On May 22, 1992 (57 FR 21770), the Department published the final determination in the LTFV investigation on high-tenacity rayon filament yarn from Germany, and subsequently

published an antidumping duty order on June 30, 1992 (57 FR 29062). On January 7, 1997, the petitioner requested that the Department conduct a changed circumstances administrative review to determine whether to revoke the order. Petitioner states that it has no further interest in the order.

Scope of the Review

The product covered by this administrative review is high-tenacity rayon filament yarn from Germany. During the review period, such merchandise was classifiable under Harmonized Tariff Schedule (HTS) item number 5403.10.30.40. High-tenacity rayon filament yarn is a multifilament single yarn of viscose rayon with a twist of five turns or more per meter, having a denier of 1100 or greater, and a tenacity greater than 35 centinewtons per tex. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive as to the scope of the product coverage. This changed circumstances administrative review covers all manufacturers/exporters of high-tenacity rayon filament yarn from Germany.

Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review, and Intent To Revoke Order

Pursuant to section 751(d) and 782(h) of the Act, the Department may revoke an antidumping duty order based on a review under section 751(b) of the Act (*i.e.*, a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances administrative review to be conducted upon receipt of a request containing sufficient information concerning changed circumstances.

The Department's regulations at 19 CFR 353.25(d)(2) permit the Department to conduct a changed circumstances administrative review under § 353.22(f) based upon an affirmative statement of no interest from the petitioner in the proceeding. Section 353.25(d)(1)(i) further provides that the Department may revoke the order if it determines that the order under review is no longer of interest to interested parties, as enumerated therein. In addition, in the event that the Department concludes that expedited action is warranted, section 353.22(f)(4) of the regulations permits the Department to combine the notices of initiation and preliminary results.

Therefore, in accordance with sections 751(b)(1) and 782(h) of the Act, 19 CFR 353.25(d), and 353.22(f), based on an affirmative statement of no

interest in the proceeding by petitioner, we are initiating this changed circumstances administrative review and have determined that expedited action is warranted. Further, we have preliminarily determined that the order on high-tenacity rayon filament yarn, as described in petitioner's request for a changed circumstances review, no longer is of interest to domestic interested parties as of June 1, 1995. Because we concluded that expedited action is warranted, we are combining these notices of initiation and preliminary results. Therefore, we are hereby notifying the public of our intent to revoke the antidumping duty order on high-tenacity rayon filament yarn from Germany, effective June 1, 1995.

If final revocation occurs, we intend to instruct the U.S. Customs Service (Customs) to liquidate without regard to antidumping duties and to refund any estimated antidumping duties collected for all unliquidated entries of the subject merchandise made on or after the effective date of revocation, June 1, 1995, in accordance with 19 CFR 353.25(d)(5). We will also instruct Customs to refund interest for entries made on or after June 1, 1995, in accordance with section 778 of the Act. The current requirement for a cash deposit of estimated antidumping duties will continue until publication of the final results of this changed circumstances review.

Public Comment

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice and any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held no later than 28 days after the date of publication of this notice, or the first working day thereafter. Case briefs and/or written comments from interested parties may be submitted no later than 14 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to the issues raised in those comments, may be filed no later than 21 days after the date of publication of this notice. All written comments shall be submitted in accordance with 19 CFR 353.31(e) and shall be served on all interested parties on the Department's service in accordance with 19 CFR 353.31(g). Persons interested in attending the hearing should contact the Department for the date and time of the hearing. The Department will publish the final results of this changed circumstances review, including the results of its analysis of issues raised in any written comments.

This initiation, preliminary results of review and notice are in accordance with section 751(b) of the Act, as amended (19 U.S.C. 1675(b)), and 19 CFR 353.22(f)(4).

Dated: March 18, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97-7588 Filed 3-25-97; 8:45 am]

BILLING CODE 3510-DS-P

[A-433-807]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Open-End Spun Rayon Singles Yarn From Austria

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

EFFECTIVE DATES: March 26, 1997.

FOR FURTHER INFORMATION CONTACT: Robert Copyak or Russell Morris, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-2786.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended ("the Act") are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Rounds Agreements Act ("URAA").

Preliminary Determination

We preliminarily determine that open-end spun rayon singles yarn from Austria 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 Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the initiation of this investigation (Notice of Initiation of Antidumping Duty Investigations: Open-End Spun Rayon Singles Yarn from Austria (61 FR 48472, September 13, 1996)), the following events have occurred. On October 4, 1996, the United States International Trade Commission ("ITC") issued an affirmative preliminary injury determination in this case (see ITC Investigation No. 731-TA-751; 61 FR 53760, October 15, 1996).

On October 4, 1996, the Department issued an antidumping duty

questionnaire to the following companies identified by petitioners as possible exporters of the subject merchandise: Linz Textil GmbH (Linz) and G. Borckenstein und Sohn A.G. (Borckenstein). The questionnaire is divided into four sections. Section A 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 ("COP") of the foreign like product and constructed value ("CV") of the subject merchandise.

Borckenstein submitted its response to section A of the questionnaire on November 8, 1996 and to sections B and C on December 3, 1996. As a result of our analysis of Borckenstein's submissions to our original questionnaire, we determined that we required additional information as well as clarification of the information submitted in the responses, and thus we issued a supplemental request for information on December 19, 1996, and requests for additional supplemental information on January 29, 1997. We received the responses to these requests on January 9, 1997, and February 6, 1997 respectively.

Linz submitted its questionnaire response to section A on October 25, 1996 and sections B and C on November 26, 1996. As a result of our analysis of Linz's response to our original questionnaire, we determined that we required additional information as well as clarification of the information submitted in the responses. We issued a supplemental request for information on December 12, 1996 and requests for additional supplemental information on January 29, 1997 and February 10, 1997. We received responses to these requests on January 6, 1997, and February 6 and 24, 1997, respectively.

Pursuant to section 733(c)(1)(B) of the Act, as amended, we postponed the date of the preliminary determination of whether sales of open-end spun rayon singles yarn from Austria have been made at less than fair value until not later than March 18, 1997 (see 62 FR 3003, January 21, 1997). We postponed the preliminary determination because this investigation is extraordinarily complicated, and because of the novel legal and methodological issues in this investigation.

In their questionnaire responses to Section A, both respondents argued that particular market conditions of this case render the home market non-viable as a

comparison market. Borckenstein argued that because there is no demand in the home market for all the same yarn counts which it sells in the United States, a third country market, Italy, is a more appropriate comparison market. Borckenstein also argued that a majority of its sales in the home market were of black rayon yarn which is generally a higher-cost, higher-priced product compared to the raw white product sold in the United States. Linz also argued that because there is no demand in the home market for the same yarn counts that Linz sells in the United States, a third country market, France, is the more appropriate comparison market. Linz also noted that French sales are more appropriate as the comparison market for U.S. sales because the customers are similar, the yarns are used in a similar fashion, there are similar quantities of sales, and similar channels and methods of distribution.

On November 14, 1996, we determined that the home market was viable for each of the respondents. Under section 773(a)(1) of the Act, the Department normally considers sales in the home market to be of sufficient quantity if they represent five percent of the aggregate quantity of sales of the subject merchandise in the United States. Both the home market sales of Borckenstein and Linz met that requirement. If the sales in the home market met the five percent requirement, the Department will only resort to a third country market when unusual situations renders the home market inappropriate. The fact that the home market may not have identical sales to compare to the sales of the subject merchandise in the United States is not an unusual situation and thus does not render the home market inappropriate. (For further explanation, see the memoranda from Barbara E. Tillman, Director, Office of CVD/AD Enforcement VI, Import Administration dated November 14, 1996, (public version) on file in the Central Records Unit, Room B-099 of the Department of Commerce.)

On December 10, 1996, petitioner objected to the use of date of invoice as the date of sale. Petitioner argued that given the actual sales processes of both respondents, the appropriate date of sale is the date of contract and not the date on which the sale is invoiced. Petitioner noted that there are no changes in the basic terms of each sale after the negotiation of the sales contract, and there is a significant lag time between the date of the sales contract and the date of the invoice. After a careful review of the petitioner's comments and the method by which sales are made in