

Dated: December 15, 1999.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

[FR Doc. 99-33221 Filed 12-21-99; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-427-001]

#### **Sorbitol From France: 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.

**SUMMARY:** In response to a request from the petitioner, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on sorbitol from France. This review covers one manufacturer/exporter of the subject merchandise. The period of review (POR) is April 1, 1998 through March 31, 1999. The respondent failed to respond to our supplemental questionnaires. As a result, we are basing our preliminary results on adverse facts available. If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties on entries during the POR.

We invite interested parties to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument: (1) A statement of the issue; and (2) a brief summary of the argument.

**EFFECTIVE DATE:** December 22, 1999.

**FOR FURTHER INFORMATION CONTACT:** Fred Baker or Robert James, AD/CVD Enforcement Group III—Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-2924 (Baker), (202) 482-0649 (James).

#### **SUPPLEMENTARY INFORMATION:**

##### **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 Round Agreements Act (URAA). In addition, unless otherwise indicated, all references to the Department's regulations are to 19 CFR part 351 (1998).

##### **Background**

The Department published an antidumping duty order on sorbitol from France on April 9, 1982 (47 FR 15391). The Department published a notice of "Opportunity to Request an Administrative Review" of the antidumping duty order for the 1998/99 review period on April 15, 1999 (64 FR 18600). On April 30, 1999, SPI Polyols, Inc. (petitioner) requested that the Department conduct an administrative review of Roquette Freres (Roquette). We published a notice of initiation of the review on May 28, 1999 (64 FR 28973).

The Department is conducting this administrative review in accordance with section 751(a) of the Act.

##### **Scope of the Review**

The merchandise under review is crystalline sorbitol. Crystalline sorbitol is a polyol produced by the catalytic hydrogenation of sugars (glucose). It is used in the production of sugarless gum, candy, groceries, and pharmaceuticals.

Crystalline sorbitol is currently classifiable under item 2905.440.00 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheading is provided for convenience and Customs purposes, the written description of the merchandise under review is dispositive of whether or not the merchandise is covered by the review.

##### **Use of Facts Available**

Section 776(a)(2) of the Act provides that "if an interested party or any other person (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority and the Commission shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title."

On May 28, 1999 the Department issued its standard antidumping questionnaire to Roquette. Roquette submitted its response to section A of the questionnaire on July 7, 1999, and

its response to sections B and C of the questionnaire on July 30, 1999. On September 23, 1999 and September 29, 1999 the Department issued supplemental questionnaires to Roquette. In an October 6, 1999, submission, Roquette informed the Department that it would not provide the Department with the information requested in the two supplemental questionnaires. The information in these questionnaires related to fundamental problems in Roquette's initial section B and C responses; absent this supplemental information the initial section B and C responses are unusable for purposes of our analysis. Therefore, we determine that the use of facts available is warranted pursuant to section 776(a)(2)(A) of the Act because Roquette withheld information requested by the Department.

Section 776(b) of the Act provides that, if the Department finds that an interested party "has failed to cooperate by not acting to the best of its ability to comply with a request for information," the Department may use information that is adverse to the interests of the party as facts otherwise available. Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See Statement of Administrative Action (SAA) accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Session at 870 (1994). Furthermore, "an affirmative finding of bad faith on the part of the respondent is not required before the Department may make an adverse inference." Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27340 (May 19, 1997), (Final Rule).

The Department finds that in not responding to the supplemental questionnaires, Roquette failed to cooperate by not acting to the best of its ability to comply with requests for information. Therefore, pursuant to section 776(b) of the Act, we may, in making our determination, use an adverse inference in selecting from the facts otherwise available. This adverse inference may include reliance on data derived from the petition, a previous determination in an investigation or review, or any other information placed on the record. For this review we have determined to assign 12.07 percent as the facts available rate to Roquette. This rate represents the highest rate for any respondent in any prior segment of this proceeding. See *Sorbitol from France; Final Results of Antidumping Duty Administrative Review*, 52 FR 20444 (June 1, 1987).

Information from prior segments of the proceeding constitutes secondary information, and section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate secondary information from independent sources reasonably at its disposal. The Statement of Administrative Action (SAA) provides that "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value (*see* H.R. Doc. 316, Vol. 1 103d Cong., 2d Sess. 870(1994)).

To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. Thus, in an administrative review, if the Department chooses as adverse facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin inappropriate. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin (*see, e.g., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (Feb. 22, 1996) (where the Department disregarded the highest margin as adverse facts available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin)).

As discussed above, it is not necessary to question the reliability of a calculated margin from a prior segment of the proceeding. Further, there are no circumstances indicating that this margin is inappropriate as facts available. Therefore, we preliminarily find that the 12.07 percent rate is corroborated.

#### Preliminary Results of the Review

As a result of this review, we preliminarily determine that a weighted-average dumping margin of 12.07 percent exists for Roquette for the period April 1, 1998 through March 31, 1999.

Interested parties may submit written comments (case briefs) no later than 30 days after the date of publication. *See* 19

CFR 351.309(c)(1)(ii). Rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs, may be filed no later than 37 days after the date of publication of this notice. *See* 19 CFR 351.309(d)(1). Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument, not to exceed five pages in length. Any interested party may request a hearing within 30 days of publication. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held two days after the submission of rebuttal briefs, if any, or the first working day thereafter. *See* 19 CFR 351.310(d). The Department will publish a notice of the final results of the administrative review, which will include the results of its analysis of issues raised by the parties, within 120 days of publication of these preliminary results. *See* 19 CFR 351.213(h).

#### Cash Deposit

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

Furthermore, the following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for Roquette will be the rate established in the final results of this administrative review; (2) for exporters not covered in this review, but covered in previous reviews or the original less-than-fair-value (LTFV) investigation, the cash deposit rate will continue to be the company-specific published for the most recent period; (3) if the exporter is not a firm covered in this review, previous reviews, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be that established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be 2.90 percent, the "all others" rate established in the final determination of sales at LTFV (47 FR 7459, February 12, 1982).

These deposit requirements, 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 under 19 CFR 351.402(f) 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 administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 15, 1999.

**Robert S. LaRossa,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-583-815]

#### Certain Welded Stainless Steel Pipe From Taiwan: Preliminary Results of Antidumping Administrative Review and Intent To Revoke in Part

**AGENCY:** Import Administration, International Trade Administration, U.S. Department of Commerce.

**ACTION:** Notice of preliminary results in the antidumping duty administrative review of certain welded stainless steel pipe from Taiwan.

**SUMMARY:** In response to requests from Ta Chen Stainless Pipe Co., Ltd. ("Ta Chen") and the domestic industry, the U.S. Department of Commerce ("Department") is conducting an administrative review of the antidumping duty order on certain welded stainless steel pipe ("WSSP") from Taiwan for the period December 1, 1997 through November 30, 1998. The Department preliminarily determines that a *de minimis* dumping margin exists for Ta Chen's sales of WSSP in the United States. If these preliminary results are adopted in our final results of this administrative review, we will instruct the U.S. Customs Service to assess antidumping duties on entries of Ta Chen's merchandise during the period of review, in accordance with the Department's regulations (19 CFR 351.106). The preliminary results are listed in the section titled "Preliminary Results of Review," *infra*.

**EFFECTIVE DATE:** December 22, 1999.