

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: August 4, 2003.

Joseph A. Spetrini,

*Acting Assistant Secretary for Grant Aldonas,
Under Secretary.*

Appendix Issues in the Decision Memorandum

Comments

1. Valuation of an Input Supplied by a Joint Venture Partner
2. Treatment of Acetylene Tail Gas as Co-Product vs. By-Product
3. Cost Allocation Methodology for Acetylene and Acetylene Tail Gas
4. Adjustment of Factors of Production for Vinyl Acetate Monomer (VAM)
5. Surrogate Value for Activated Carbon
6. Surrogate Value for Natural Gas
7. Valuation of N-Methyl-2-Pyrrolidone (NMP)
8. Clerical Error in the Preliminary Determination
9. Application of a By-Product Credit in the Calculation of the Surrogate Financial Ratios
10. Adjustments to the Surrogate Financial Ratios for Differences in Integration Levels
11. Surrogate Value for Ocean Freight

[FR Doc. 03-20319 Filed 8-8-03; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-850]

Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol From the Republic of Korea

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

EFFECTIVE DATE: August 11, 2003.

FOR FURTHER INFORMATION CONTACT: Irina Itkin or Jill Pollack at (202) 482-0656 and (202) 482-4593, respectively, AD/CVD Enforcement, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Final Determination

We determine that polyvinyl alcohol (PVA) from the Republic of Korea (Korea) is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

Background

The preliminary determination in this investigation was issued on March 14, 2003. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Polyvinyl Alcohol from the Republic of Korea*, 68 FR 13681 (March 20, 2003) (*Preliminary Determination*).

Since the preliminary determination, the following events have occurred. On March 3, 2003, the petitioners agreed to revise the scope of the companion case on PVA from Japan to exclude certain types of PVA covalently bonded with diacetoneacrylamide. The petitioners' submission was made in response to a request by Japan VAM and POVAL Co., Ltd., one of the mandatory respondents in the companion Japanese case.

Because these comments relate to PVA in general, we find that they are applicable to this proceeding. Accordingly, as we did in the preliminary determination, we have modified the scope to conform to that set forth in the companion Japanese proceeding, as described below. *See Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Japan*, 68 FR 19510 (April 21, 2003).

On March 12, 2003, DC Chemical Company, Ltd. (DC CHEM), the mandatory respondent in this investigation, filed a request to exclude from the scope of this investigation certain grades of PVA in which the PVA is covalently bonded with itaconic acid.

On March 27, 2003, DC CHEM notified the Department that it no longer intended to participate in this investigation. For further discussion, see the "Facts Available (FA)" section of this notice.

On April 1, 2003, the petitioners commented on DC CHEM's exclusion request. For further discussion, see the "Scope Comments" section of this notice.

Scope of the Investigation

The merchandise covered by this investigation is PVA. This product consists of all PVA hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid, except as noted below.

The following products are specifically excluded from the scope of this investigation:

- (1) PVA in fiber form.
- (2) PVA with hydrolysis less than 83 mole percent and certified not for use in the production of textiles.

(3) PVA with hydrolysis greater than 85 percent and viscosity greater than or equal to 90 cps.

(4) PVA with a hydrolysis greater than 85 percent, viscosity greater than or equal to 80 cps but less than 90 cps, certified for use in an ink jet application.

(5) PVA for use in the manufacture of an excipient or as an excipient in the manufacture of film coating systems which are components of a drug or dietary supplement, and accompanied by an end-use certification.

(6) PVA covalently bonded with cationic monomer uniformly present on all polymer chains in a concentration equal to or greater than one mole percent.

(7) PVA covalently bonded with carboxylic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent, certified for use in a paper application.

(8) PVA covalently bonded with thiol uniformly present on all polymer chains, certified for use in emulsion polymerization of non-vinyl acetic material.

(9) PVA covalently bonded with paraffin uniformly present on all polymer chains in a concentration equal to or greater than one mole percent.

(10) PVA covalently bonded with silan uniformly present on all polymer chains certified for use in paper coating applications.

(11) PVA covalently bonded with sulfonic acid uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.

(12) PVA covalently bonded with acetoacrylate uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.

(13) PVA covalently bonded with polyethylene oxide uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.

(14) PVA covalently bonded with quaternary amine uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.

(15) PVA covalently bonded with diacetoneacrylamide uniformly present on all polymer chains in a concentration level greater than three mole percent, certified for use in a paper application.

The merchandise under investigation is currently classifiable under subheading 3905.30.00 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 investigation is dispositive.

Scope Comments

On March 12, 2003, DC CHEM filed a request to exclude from the scope of this investigation certain grades of a copolymer of PVA in which the PVA is covalently bonded with itaconic acid. On April 1, 2003, the petitioners commented on DC CHEM's exclusion request. In their comments, the petitioners state that three of the five grades of PVA listed in DC CHEM's exclusion request (*i.e.*, CL-05, CL-05A, and CL-05S) are not subject to this investigation because their level of hydrolysis is less than 80 percent. Regarding the remaining grades, the petitioners comment that PVA covalently bonded with itaconic acid (a type of carboxylic acid) for use in paper applications is also outside the scope of this investigation. *See* item 7 in the "Scope of the Investigation" section of this notice, above. However, the petitioners do not agree to exclude PVA covalently bonded with itaconic acid for non-paper applications because, they assert, these products are directly competitive with products produced by the domestic industry.

We have analyzed DC CHEM's request and the petitioners' objections and we find no modifications to the scope are warranted. Because PVA covalently bonded with itaconic acid for non-paper applications is clearly within the scope of the investigation, we find no basis on which to exclude these products.

Period of Investigation

The period of investigation (POI) is July 1, 2001, through June 30, 2002. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, September 2002).

Analysis of Comments Received

On April 11, 2003, we received comments from the petitioners in response to the preliminary determination. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in the *Decision Memo*, which is on file in the Central Records Unit, room B-099, of the main Department building. In addition, a complete version of the *Decision Memo* can be accessed directly on the Web at <http://ia.ita.doc.gov>. The paper copy and electronic version of the *Decision Memo* are identical in content.

Facts Available (FA)

The mandatory respondent in this case, DC CHEM, notified the Department on March 27, 2003, that it no longer intended to participate in the investigation. Section 776(a)(2) of the Act provides that, if an interested party: (A) Withholds information requested by the Department, (B) fails to provide such information by the deadline, or in the form or manner requested, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination.

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with a request for information. *See, e.g.*, *Notice of Final Determination of Sales of Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794-96 (August 30, 2002). To examine whether the respondent cooperated by acting to the best of its ability under section 776(b) of the Act, the Department considers, *inter alia*, the accuracy and completeness of submitted information and whether the respondent has hindered the calculation of accurate dumping margins. *See, e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products From Brazil*, 65 FR 5554, 5567 (February 4, 2000).

In the instant investigation, the accuracy and completeness of the submitted information has not been established because the respondent did not agree to verification of all of its responses. Without verified data on the record, the Department cannot calculate accurate margins. Therefore, the respondent's refusal to allow a complete verification has hindered the calculation of accurate dumping margins and impeded the proceeding within the meaning of section 776(a)(2)(C) of the Act. As a result, application of facts available is appropriate. Moreover, by refusing to allow the Department to verify all of its responses, the respondent did not act to the best of its ability as required by section 776(b) of the Act. Consequently, we have determined to make an adverse inference in determining an antidumping duty margin for DC CHEM.

Corroboration of Information

Section 776(b) of the Act authorizes the Department to use as adverse facts available (AFA) information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record.

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as FA. Secondary information is defined as "{i}nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise." *See* 19 CFR 351.308 (c) and (d); *see also* the Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316 at 870 (1994).

The SAA clarifies that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. *See* the SAA at 870. The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *Id.*

In order to determine the probative value of the margins in the petition for use as AFA for purposes of this final determination, we used information submitted by DC CHEM on the record of this investigation. We reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis of the petition, to the extent appropriate information was available for this purpose (*see* the September 25, 2002, Initiation Checklist, on file in the Central Records Unit, Room B-099, of the Main Commerce Department building, for a discussion of the margin calculations in the petition). In accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the export price (EP) and normal value (NV) calculations on which the margins in the petition were based. *See* the August 4, 2003, memorandum to the file from the team entitled "Corroboration of Data Contained in the Petition for Assigning Facts Available Rates" (Corroboration Memo).

Export Price

With respect to the margins in the petition, EP was based on POI price quotes for the sale of fully-hydrolyzed PVA produced by DC CHEM to customers in the United States. The petitioners calculated net U.S. prices for PVA by deducting certain movement charges and a distributor mark-up, where applicable.

We corroborated the U.S. prices from the petition by comparing them to prices of comparable products reported by DC CHEM. We found that the petitioners' price quotes were comparable to the price information submitted by DC CHEM. Therefore, we find that the petitioners' information for U.S. price has probative value. For further discussion, see the Corroboration Memo.

Normal Value

The petitioners based NV on a home-market price quote from DC CHEM for fully-hydrolyzed PVA of a comparable grade to the products exported to the United States during the POI. This price quote was contemporaneous with the U.S. price quotes used as the basis for EP. We corroborated the home-market price from the petition by comparing it to prices of comparable products sold by DC CHEM. We found that the petitioners' price quote was comparable to the price information submitted by DC CHEM. Therefore, we find that the petitioners' information for home-market price has probative value. See the Corroboration Memo.

In addition, the petitioners alleged that sales of PVA in the home market were made at prices below the fully-absorbed cost of production (COP), within the meaning of section 773(b) of the Act, and requested that the Department conduct a country-wide sales-below-cost investigation. Based upon a comparison of the prices of the foreign like product in the home market to the calculated COP of the product, we found reasonable grounds to believe or suspect that sales of the foreign like product were made below the COP, within the meaning of section 773(b)(2)(A)(i) of the Act. See *Notice of Initiation of Antidumping Duty Investigations: Polyvinyl Alcohol From Germany, Japan, the People's Republic of China, the Republic of Korea, and Singapore*, 67 FR 61591, 61594 (October 1, 2002) (*Initiation Notice*). Accordingly, the Department initiated a country-wide cost investigation. Pursuant to section 773(b)(3) of the Act, COP consisted of the cost of manufacture (COM), selling, general and administrative (SG&A) expenses, and packing expenses. The

petitioners calculated COP based on their own production experience, adjusted for known differences between costs incurred to manufacture PVA in the United States and Korea. We corroborated the COP from the petition by comparing it to the COP of comparable products sold by DC CHEM. We found that the petitioners' calculated COP was comparable to DC CHEM's COP. Therefore, we find that the petitioners' calculated COP has probative value. See the Corroboration Memo.

Pursuant to sections 773(a)(4), 773(b) and 773(e) of the Act, the petitioners based NV for sales in Korea on constructed value (CV). The petitioners calculated CV using the same COM, SG&A, and financial expense figures they used to compute the COP. Consistent with section 773(e)(2) of the Act, the petitioners included in CV an amount for profit based on DC CHEM's 2001 financial statements. The petitioners' calculation of profit was based on operating profit rather than the net income of the producer. Therefore, we recalculated the CV profit rate to include non-operating items. Because this calculation resulted in a loss, we used a profit rate of zero for purposes of initiation.

For purposes of the AFA rate we have calculated for this final determination, however, we do not believe it is appropriate to exclude profit from the margin calculations because to do so would not be an adverse inference. Consequently, we have revised our calculation of the profit rate to use a rate derived from the publicly available 2001 financial statements of another Korean petrochemical company, LG Petrochemical. For further discussion, see the *Decision Memo* at Comment 1.

Therefore, based on our efforts described above to corroborate information contained in the petition and in accordance with 776(c) of the Act, we consider the margins in the notice of initiation, as adjusted, to be corroborated to the extent practicable for purposes of this final determination. See the Corroboration Memo.

Accordingly, in selecting AFA with respect to DC CHEM, we have applied the margin rate of 38.74 percent, which is the highest estimated dumping margin submitted in the petition, used in the notice of initiation, and subsequently adjusted as explained above. See the *Initiation Notice*, 67 FR at 61593, and the *Decision Memo* at Comment 1.

All Others

Section 735(c)(5)(B) of the Act provides that, where the estimated

weighted-average dumping margins established for all exporters and producers individually investigated are zero or *de minimis* or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated "All Others" rate for exporters and producers not individually investigated. This provision contemplates that we weight-average margins other than zero, *de minimis*, and FA margins to establish the "All Others" rate. Where the data do not permit weight-averaging such rates, the SAA provides that we may use other reasonable methods. See the SAA at 873. Because the petition contained two estimated dumping margins, we have used these two estimated dumping margins, as adjusted for the notices of initiation and final determination, to create an "All Others" rate based on a simple average. Therefore, we have calculated the margin of 32.08 percent as the "All Others" rate. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Final Affirmative Finding of Critical Circumstances: Elastic Rubber Tape from India*, 64 FR 19123, 19124 (April 19, 1999).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the U.S. Bureau of Customs and Border Protection (BCBP) to continue to suspend all entries of PVA from Korea that are entered, or withdrawn from warehouse, for consumption on or after March 20, 2003, the date of publication of the preliminary determination. The BCBP shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These instructions suspending liquidation will remain in effect until further notice.

The dumping margins are provided below:

Manufacturer/exporter	Margin (percent)
DC Chemical Company, Ltd	38.74
All Others	32.08

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury or threat of material

injury does not exist, the 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 the BCBP to assess 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.

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: August 4, 2003.

Joseph A. Spetrini,

*Acting Assistant Secretary for Grant Aldonas,
Under Secretary.*

[FR Doc. 03-20320 Filed 8-8-03; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-810]

Stainless Steel Bar From India; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On March 7, 2003, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on stainless steel bar from India. We gave interested parties an opportunity to comment on the preliminary results and have made certain changes for the final results. We find that certain companies reviewed sold stainless steel bar from India in the United States below normal value during the period February 1, 2001 through January 31, 2002.

EFFECTIVE DATE: August 11, 2003.

FOR FURTHER INFORMATION CONTACT: Cole Kyle or Ryan Langan, Office 1, AD/CVD

Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482-1503 or (202) 482-2613, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 7, 2003, the Department published the *Notice of Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India* ("Preliminary Results") in the **Federal Register** (68 FR 11058).

In April and May 2003, we conducted verifications of the sales and cost of production ("COP") questionnaire responses submitted by Isibars Limited ("Isibars"), Venus Wire Industries Limited ("Venus"), and the Viraj Group, Ltd. ("Viraj"). We issued verification reports in May and June 2003.

After inviting parties to comment on the *Preliminary Results* of this review, Carpenter Technology Corp., Crucible Specialty Metals Division of Crucible Materials Corp., Electralloy Corp., Slater Steels Corp., Empire Specialty Steel and the United Steelworkers of America (AFL-CIO/CLC) (collectively, "the petitioners"), and Mukand, Ltd. ("Mukand"), Venus Wire Industries Limited ("Venus"), and the Viraj Group, Ltd. ("Viraj") filed case and rebuttal briefs,¹ respectively, on June 30 and July 9, 2003.

Scope of the Order

Merchandise covered by the order is shipments of stainless steel bar ("SSB"). SSB means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.*, cut length rolled products which, if less than 4.75 mm in thickness, have a width measuring at least 10 times the thickness, or, if 4.75

mm or more in thickness, have a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.*, cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The SSB subject to this order is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the *Issues and Decision Memorandum for the Final Results of the Administrative Review of Stainless Steel Bar from India* ("Decision Memorandum") dated August 4, 2003, which is hereby adopted by this notice. A list of the issues which parties raised and to which we responded, all of which are in the *Decision Memorandum*, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, Room B-099 of the main Department building ("CRU"). In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at <http://ia.ita.doc.gov/frn/index.html>. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Facts Otherwise Available

We continue to find that Mukand did not cooperate to the best of its ability in this review and are assigning Mukand an antidumping duty rate based on total adverse facts available. See section 776 of the Tariff Act of 1930, as amended effective January 1, 1995 ("the Act"), by the Uruguay Round Agreements Act ("URAA"). See also *Preliminary Results and Decision Memorandum* at Comment 1.

Fair Value Comparisons

To determine whether sales of stainless steel bar from India to the United States were made at less than fair value, we compared export price ("EP") or constructed export price

¹ The other company in this review, Isibars Limited, did not file case or rebuttal briefs.