

purposes of the final determination within 40 days after the date of publication of this preliminary determination. Case briefs or other written comments must be submitted to the Assistant Secretary for Import Administration no later than one week after issuance of the verification report. Rebuttal briefs, whose contents are limited to the issues raised in the case briefs, must be filed within five days after the deadline for the submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette.

In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. If a request for a hearing is made, we will tentatively hold the hearing two days after the deadline for submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date. Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, oral presentations will be limited to issues raised in the briefs. *See* 19 CFR 351.310(c). The Department will make its final determination no later than 75 days after this preliminary determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: September 26, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02-25186 Filed 10-2-02; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-823-814]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Urea Ammonium Nitrate Solutions from Ukraine

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

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Crystal Crittenden or Tom Futtner, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0989 and (202) 482-3814, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

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 citations to the Department of Commerce's (the Department) regulations are to the regulations codified at 19 CFR part 351 (April 2002).

Preliminary Determination:

We preliminarily determine that imports of urea ammonium nitrate solutions (UANS) from Ukraine are being, or are 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

On May 9, 2002, the Department initiated antidumping duty investigations to determine whether imports of UANS from Lithuania, Belarus, the Russian Federation, and Ukraine are being, or are likely to be, sold in the United States at LTFV. *See Initiation of Antidumping Investigations: Urea Ammonium Nitrate Solutions from Belarus, Lithuania, the Russian Federation, and Ukraine*, 67 FR 35492 (May 20, 2002) (*Initiation Notice*).¹

¹ The petitioner in this investigation is the Nitrogen Solutions Fair Trade Committee (the petitioner). Its members consist of CF Industries, Inc., Mississippi Chemical Corporation, and Terra Industries, Inc.

On June 4, 2002, the International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of UANS from Belarus, the Russian Federation and Ukraine. *See Urea Ammonium Nitrate Solution from Belarus, Lithuania, the Russian Federation and Ukraine*, 67 FR 39439 (June 7, 2002).

During May 2002, the Department provided participating parties with an opportunity to comment on scope and the product characteristics of subject merchandise. No parties submitted comments.

On May 22, 2002, the Department issued its antidumping questionnaire² to JSC Stirol (Stirol), JSC Azot Cherkassy (Cherkassy), and to the Embassy of Ukraine in Washington, DC requesting that they forward it to any other potential respondents. The Department received no responses to the questionnaire.

Period of Investigation

The period of investigation (POI) is October 1, 2001, through March 31, 2002. This period corresponds to the two most recent fiscal quarters prior to the filing of the petition (*i.e.*, April 2002). *See* 19 CFR 351.204(b)(1).

Scope of Investigation

For purposes of these investigations, the product covered is all mixtures of urea and ammonium nitrate in aqueous or ammoniacal solution, regardless of nitrogen content by weight, and regardless of the presence of additives, such as corrosion inhibitors. The merchandise subject to these investigations is classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3102.80.00.00. Although the HTSUS item number is provided for convenience and U.S. Customs Service (U.S. Customs) purposes, the written description of the merchandise under investigation is dispositive.

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 manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy (NME) cases). Section C requests a complete listing of U.S. sales. Section D requests information on the factors of production of the merchandise sold in or to the United States under investigation. Section E requests information on further manufacturing.

Nonmarket Economy Country Status

The Department has treated Ukraine as an nonmarket economy (NME) country in all previous antidumping investigations. *See Notice of Final Determination of Sales at Less Than Fair Value: Solid Agricultural Ammonium Nitrate from Ukraine*, 66 FR 38632 (July 25, 2001). This NME designation remains in effect until it is revoked by the Department. *See* section 771(1)(C) of the Act. No party has sought revocation of the NME status in this investigation.³ Therefore, in accordance with section 771(1)(C) of the Act, we will continue to treat Ukraine as an NME country.

Ukraine-Wide Rate

In an NME proceeding, the Department presumes that all companies within the country are subject to governmental control, and assigns separate rates only if the respondent demonstrates the absence of both *de jure* and *de facto* governmental control over export activities. *See Notice of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 19026, 19027 (April 30, 1996). Stirol and Cherkassy did not demonstrate the eligibility for a separate rate under the separate rates criteria. Accordingly, we preliminarily determine that Stirol and Cherkassy, in addition to all other exporters, are part of the NME-entity and subject to the Ukraine-wide rate.

Facts Available

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 for submission of the information, or in the form and manner requested, (C) significantly impedes a proceeding under the antidumping statute, or (D) provides information that cannot be verified, the Department shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination.

Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the

established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

No respondent submitted a response to the Department's questionnaire. *See* Letters from Holly Kuga to Stirol and to Cherkassy, dated August 16, 2002. Without a substantive response to the Department's questionnaire, we have no basis for determining a margin. Thus, the Department has applied facts available (FA), in accordance with section 776(a)(2) of the Act, in making our preliminary dumping determination.

Selection of Adverse FA

Section 776(b) of the Act provides that if the Department finds the respondent "has failed to cooperate by not acting to the best of its ability to comply with a request for information...{the Department} may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available." *See, e.g., Notice of Final Results of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipes and Tubes From Thailand*, 62 FR 53808, 53819–20 (October 16, 1997). No respondent responded to the Department's questionnaire. On August 22, 2002, Stirol submitted a letter stating that it did not submit a response because it had no shipments of UANS to the United States, which we confirmed with the U.S. Customs Service. *See* Memo to the file from Crystal Crittenden dated September 13, 2002. As a general matter, it is reasonable for the Department to assume that the respondents possessed the records necessary for this investigation, and that by not supplying any information requested by the Department, they failed to cooperate to the best of their ability. Because the Department has determined that the respondents failed to cooperate to the best of their ability, we are applying an adverse inference pursuant to section 776(b) of the Act. As adverse FA, we have used the margin cited in the initiation of this proceeding corroborated with the most updated and accurate data that was available to the Department (*i.e.*, the highest margin based on the adjusted initiation margin calculation), which is 193.58 percent, as the Ukraine-wide rate. *See AD Initiation Checklist* (May 9, 2002) (*Initiation Checklist*). Pursuant to section 776(c) of

the Act, the Department has corroborated the 193.58 percent margin from initiation to the extent practicable. *See* Total Facts Available Corroboration Memorandum, dated September 26, 2002. This Ukraine-wide rate applies to all entries of subject merchandise. Though Stirol stated that it had no shipments, there is no basis to assign Stirol a rate distinct from the Ukrainian-wide rate.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all imports of UANS from Ukraine entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the U.S. Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the U.S. price, as indicated below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margin is as follows:

| Manufacturer/exporter | Margin (percent) |
|-----------------------|------------------|
| Ukraine-wide | 193.58 |

Disclosure

In accordance with 19 CFR 351.224(b), the Department will disclose the calculations performed in the preliminary determination to interested parties within five days of the date of publication of this notice.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary affirmative determination. If the final determination in this proceeding is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of UANS from Ukraine are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments must be submitted to the Assistant Secretary for Import Administration no later than one week after issuance of the verification report. Rebuttal briefs, whose contents are limited to the issues raised in the case briefs, must be filed within five days after the deadline for the submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should

³ We note that there is an ongoing inquiry into the status of Ukraine as a NME country, for which a notice to defer this decision was signed on August 5, 2002. *See Notice to Defer a Decision Regarding Ukraine's Non-Market Economy Status: Antidumping Duty Investigation of Carbon and Certain Alloy Steel Wire Rod from Ukraine*, 67 FR 51536 (August 8, 2002). Information on this separate proceeding can also be found at Import Administration's Web site, at <http://ia.ita.doc.gov/>.

accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette.

In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. If a request for a hearing is made, we will tentatively hold the hearing two days after the deadline for submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date. Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, oral presentations will be limited to issues raised in the briefs. See 19 CFR 351.310(c). The Department will make its final determination no later than 75 days after this preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: September 26, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02-25187 Filed 10-02-02; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-822-805]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Urea Ammonium Nitrate Solutions From Belarus

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

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Tom Martin or Tom Futtner, AD/CVD

Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3936, and (202) 482-3814, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

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 citations to the Department of Commerce (the Department) regulations are to the regulations codified at 19 CFR part 351 (April 2002).

Preliminary Determination

We preliminarily determine that imports of urea ammonium nitrate solutions (UANS) from Belarus are being sold, or are 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

On May 9, 2002, the Department initiated antidumping duty investigations to determine whether imports of UANS from Lithuania, Belarus, the Russian Federation, and Ukraine are being, or are likely to be, sold in the United States at LTFV. See *Initiation of Antidumping Investigations: Urea Ammonium Nitrate Solutions from Belarus, Lithuania, the Russian Federation, and Ukraine*, 67 FR 35492 (May 20, 2002) (*Initiation Notice*).¹

On June 4, 2002, the International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of UANS from Belarus, the Russian Federation and Ukraine. See *Urea Ammonium Nitrate Solution from Belarus, Lithuania, the Russian Federation and Ukraine*, 67 FR 39439 (June 7, 2002).

During May 2002, the Department provided participating parties with an opportunity to comment on scope and the product characteristics of subject

merchandise. No parties submitted comments.

On May 22, 2002, the Department issued its antidumping questionnaire² to the Embassy of Belarus in Washington D.C., and to the company identified in the petition, Grodno Production Republican Enterprise "GPO Azot" (Grodno). The Department requested that the Embassy of Belarus send the questionnaire to all companies that manufactured and exported UANS to the United States, as well as all manufacturers that produced UANS for companies engaged in exporting subject merchandise to the United States, and all companies that exported UANS to the United States, during the period of investigation (POI). Only Grodno responded to the Department's questionnaire; the Department received timely responses on June 12, 2002 for the section A response, and July 2, 2002 for the section C and D responses. During July and August 2002, the Department issued and Grodno responded to three supplemental questionnaires.

Period of Investigation

The POI is October 1, 2001, through March 31, 2002. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, April, 2002). See 19 CFR 351.204(b)(1).

Scope of Investigation

For purposes of this investigation, the product covered is all mixtures of urea and ammonium nitrate in aqueous or ammoniacal solution, regardless of nitrogen content by weight, and regardless of the presence of additives, such as corrosion inhibitors. The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3102.80.00.00. Although the HTSUS item number is provided for convenience and U.S. Customs Service (U.S. Customs) purposes, the written description of the merchandise under investigation is dispositive.

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 manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in nonmarket economy (NME) cases). Section C requests a complete listing of U.S. sales. Section D requests information on the factors of production of the merchandise sold in or to the United States under investigation. Section E requests information on further manufacturing.

¹ The petitioner in this investigation is the Nitrogen Solutions Fair Trade Committee (the petitioner). Its members consist of CF Industries, Inc., Mississippi Chemical Corporation, and Terra Industries, Inc.