

DEPARTMENT OF COMMERCE**International Trade Administration**

[C-533-839]

Final Affirmative Countervailing Duty Determination: Carbazole Violet Pigment 23 From India

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

SUMMARY: The Department of Commerce (the Department) has reached a final determination that countervailable subsidies are being provided to producers/exporters of carbazole violet pigment 23 (CVP-23) from India. For information on the estimated countervailable subsidy rates, please see the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: November 17, 2004.

FOR FURTHER INFORMATION CONTACT:

Sean Carey or Addilyn Chams-Eddine, Office of AD/CVD Operations, Office VI, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-3964 and (202) 482-0648 respectively.

SUPPLEMENTARY INFORMATION:**Case History**

The petition in this investigation was filed November 21, 2003, by Nation Ford Chemical and Sun Chemical Company (collectively, the petitioners). On December 11, 2003, we initiated the investigation. See *Notice of Initiation of Countervailing Duty Investigation: Carbazole Violet Pigment 23 (CVP-23) from India*, 68 FR 70778 (December 19, 2003). On April 27, 2004, the Department published its affirmative preliminary determination and, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act), we aligned the final determination in this countervailing duty investigation with the final determination in the antidumping duty investigation of CVP-23 from India. See *Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment with Final Antidumping Duty Determination: Carbazole Violet Pigment 23 from India*, 69 FR 22763 (April 27, 2004) (*Preliminary Determination*).

Since the *Preliminary Determination*, the following events have occurred. Alpanil Industries Ltd. (Alpanil) provided a response on April 30, 2004, for its trading company, Meghmani Organics Ltd. (Meghmani), and its use of the subsidy programs under investigation. We issued supplemental

questionnaires to the Government of India (GOI) on May 11, 2004, and to Alpanil and Pidilite Industries Ltd. (Pidilite) on May 18, 2004. The GOI filed its response on May 25, 2004, and Alpanil and Pidilite filed their responses on June 7, 2004. On June 14, 2004, Alpanil submitted additional information that was inadvertently omitted from its June 7, 2004, response. In the Department's June 23, 2004, memorandum to the file, we noted our request to Alpanil to provide Meghmani's tax return filed during the POI. Alpanil provided this information in its June 30, 2004, submission.

From July 12 through July 31, 2004, the Department conducted verification of the questionnaire responses provided by the GOI, Alpanil and Pidilite. The Department issued the GOI and Pidilite verification reports on September 29, 2004. See Memorandum to the File from Sean M. Carey to Dana Mermelstein, *Countervailing Duty Investigation of Carbazole Violet Pigment 23 (CVP-23) from India: Verification of the Government of India's (GOI) Subsidy Programs*; Memorandum to the File from Addilyn P. Chams-Eddine to Barbara E. Tillman, *Countervailing Duty Investigation of Carbazole Violet Pigment 23 from India: Verification of the Pidilite Industries Ltd., located in Mumbai, India*. The Alpanil verification report was issued on October 8, 2004. See Memorandum to the File from Sean M. Carey and Addilyn Chams-Eddine to Dana Mermelstein, *Countervailing Duty Investigation of Carbazole Violet Pigment 23 from India: Verification of Alpanil Industries Ltd.* In addition, on October 8, 2004, we issued a memorandum containing our preliminary analysis of the Central Value Added Tax Program (CENVAT) which we had listed in the *Preliminary Determination* as a program for which additional information was needed. See Memorandum to the File from Barbara E. Tillman, Director, Office of AD/CVD Enforcement VI, to Jeffrey A. May, Deputy Assistant Secretary, Import Administration, *Countervailing Duty Investigation of Carbazole Violet Pigment-23 from India: Preliminary Analysis of the Central Value Added Tax (CENVAT) Program*, (CENVAT Memorandum).

On October 7, 2004, case briefs were filed by Alpanil and Pidilite, by the petitioners, and by Clariant, a domestic producer which supports the petition. On October 12, 2004, these parties filed rebuttal briefs. We allowed parties a separate opportunity to file comments and rebuttal comments on our *CENVAT Memorandum*. No parties provided direct comments, however, the GOI

provided rebuttal comments on October 18, 2004. The Department allowed parties an opportunity to respond to the GOI's rebuttal brief. No parties provided comments.

Period of Investigation

The investigation covers all producers/exporters of subject merchandise in India for the period April 1, 2002, through March 31, 2003.

Scope of the Investigation

The merchandise covered by this investigation is CVP-23 identified as Color Index No. 51319 and Chemical Abstract No. 6358-30-1, with the chemical name of *diindolo [3,2-b:3',2'-m] triphenodioxazine, 8,18-dichloro-5,15-diethyl-5,15-dihydro-*, and molecular formula of C₃₄H₂₂Cl₂N₄O₂.¹ The subject merchandise includes the crude pigment in any form (e.g., dry powder, paste, wetcake) and finished pigment in the form of presscake and dry color. Pigment dispersions in any form (e.g., pigments dispersed in oleoresins, flammable solvents, water) are not included within the scope of the investigation.

Analysis of Comments Received

All issues raised by the interested parties in their case and rebuttal briefs, and comments on our *CENVAT Memorandum* are addressed in the "Issues and Decision Memorandum" (*Decision Memorandum*) dated November 8, 2004, which is hereby adopted by this notice. A list of the issues which parties have raised is attached to this notice as Appendix I. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit (CRU). This public memorandum also contains the recommended adverse facts available program rates and the total countervailable subsidy rate for the non-responding company, AMI. A complete version of the *Decision Memorandum* is available at <http://www.ia.ita.doc.gov> under the heading **Federal Register Notices**. The paper copy and the electronic version of the *Decision Memorandum* are identical in content.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i) of the Act, we have

¹ The bracketed section of the product description, [3,2-b:3',2'-m], is not business proprietary information. In this case, the brackets are simply part of the chemical nomenclature. See December 4, 2003, amendment to petition (supplementary petition) at 8.

determined individual rates for Alpanil, Pidilite and AMI Pigments Pvt. Ltd. (AMI). Because AMI's rate is based on partial facts available rather than on total facts available, we are including its rate in the calculation of the "all others" rate in accordance with section 705(c)(5)(A)(i) of the Act. To calculate the "all others" rate, we weight-averaged the individual company rates by each company's respective sales of subject merchandise made to the United States during the POI. These rates are summarized in the table below:

Producer/ exporter	Net subsidy rate (percent ad valorem)
Alpanil Industries Ltd	17.57
Pidilite Industries Ltd	17.33
AMI Pigments Pvt. Ltd	33.61
All Others	20.55

In accordance with our preliminary affirmative determination, we instructed U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of CVP-23 from India, which were entered or withdrawn from warehouse, for consumption on or after April 27, 2004, the date of the publication of our preliminary determination in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation for merchandise entered on or after August 26, 2004, but to continue the suspension of liquidation of entries made between April 27, 2004, through August 25, 2004.

If the International Trade Commission (ITC) issues a final affirmative injury determination, we will issue a countervailing duty order, reinstate suspension of liquidation under section 706(a) of the Act for all entries, and require a cash deposit of estimated countervailing duties for such entries of merchandise at the rates indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as

a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided that the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

November 8, 2004.

James J. Jochum,
Assistant Secretary for Import Administration.

Appendix I: Issues and Decision Memorandum

Summary

I. List of Issues

- Comment 1: Alpanil and Meghmani are Affiliated Parties.
- Comment 2: The Department Should Continue to Determine that the Following Programs are Countervailable: Pre-Shipment Export Financing Program, Duty Entitlement Passbook Scheme (DEPS), Section 80HHC Income Tax Exemption Scheme, and the State of Gujarat Sales Tax Incentive Scheme.
- Comment 3: Alpanil Did Not Use the Pre-Shipment Export Financing Loans Program for U.S. Exports of CVP-23.

Comment 4: Alpanil Did Not Receive Any Benefits from the State of Gujarat Sales Tax Incentive Scheme.

Comment 5: Pidilite's State Sales Tax Deferrals are Countervailable.

Comment 6: CENVAT Credits are Countervailable.

Comment 7: The Department Should Use Adverse Facts Available to Calculate the Subsidy Rates for AMI under Additional Programs.

Comment 8: The Estimated Countervailing Duty Cash Deposit Rates Should be Adjusted to Account for Program-Wide Changes in the DEPS and Section 80HHC Programs

II. Subsidies Valuation Information

- A. Loan Benchmarks
- B. Cross-Ownership and Attribution of Subsidies

III. Use of Adverse Facts Available

IV. Analysis of Programs

- A. Programs Determined To Confer Subsidies
 - 1. GOI Programs
 - a. Pre-Shipment Export Financing
 - b. Duty Entitlement Passbook Scheme (DEPS)
 - c. Income Tax Exemption Scheme, Section 80 HHC
 - d. Export Promotion Capital Goods Scheme (EPCGS)
 - 2. State Programs
 - a. State of Gujarat (SOG) Sales Tax Incentive Scheme
 - b. State of Maharashtra (SOM) Sales Tax Incentive Scheme
- B. Programs Determined Not To Confer Subsidies
 - GOI Program: Central Value Added Tax (CENVAT) Credits
- C. Programs Determined Not To Be Used GOI Programs
 - a. Export Processing Zones (EPZs)/Export Oriented Units (EOUs) Programs
 - b. Income Tax Exemption Scheme (Sections 10A and 10B)
 - c. Market Development Assistance
 - d. Special Imprest Licenses
 - e. Duty Free Replenishment Certificate
 - f. Advance License Scheme
- D. Program Determined To Be Terminated GOI Program: Exemption of Export Credit From Interest Taxes

V. Analysis of Comments

VI. Recommendation

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