
DEPARTMENT OF COMMERCE**International Trade Administration**

[A-570-880]

**Notice of Initiation of Antidumping
Duty Investigation: Barium Carbonate
From the People's Republic of China**

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

ACTION: Initiation of antidumping duty
investigation.

EFFECTIVE DATE: October 25, 2002.

FOR FURTHER INFORMATION CONTACT:
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Administration, International Trade
Administration, U.S. Department of
Commerce, 14th Street and Constitution
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Initiation of Investigations*The Applicable Statute and Regulations*

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 of Commerce's (the Department's) regulations are references

to the provisions codified at 19 CFR part 351 (2002).

The Petition

On September 30, 2002, the Department received a petition filed in proper form by Chemical Products Corporation (CPC, or the petitioner). The Department received a supplement to the petition on October 16, 2002.

In accordance with section 732(b)(1) of the Act, the petitioner alleges that imports of barium carbonate from the People's Republic of China (the PRC) are, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening to materially injure, an industry in the United States.

The Department finds that the petitioner filed this petition on behalf of the domestic industry because it is an interested party as defined in sections 771(9)(C) of the Act, and it has demonstrated sufficient industry support with respect to the antidumping investigation that it is requesting the Department to initiate. *See infra*, "Determination of Industry Support for the Petition."

Scope of Investigation

The merchandise covered by this investigation is barium carbonate, regardless of form or grade. The product under investigation is currently classifiable under subheading 2836.60.0000 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 scope of this proceeding is dispositive.

As discussed in the preamble to the Department's regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 calendar days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determinations.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that the Department's industry support determination, which is to be made before the initiation of the investigation, be based on whether a minimum percentage of the relevant industry supports the petition. A petition meets this requirement if the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall either poll the industry or rely on other information in order to determine if there is support for the petition.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.¹

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses

with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

We reviewed the description of the domestic like product presented in the petition. Based upon our review of the petitioner's claims, we concur that there is a single domestic like product, which is defined in the "Scope of Investigation" section above. This is consistent with determinations in past investigations to treat all barium carbonate products as a single class or kind of merchandise. *See, e.g., International Trade Commission Notices (No. 731-TA-31 Final): Precipitated Barium Carbonate from the Federal Republic of Germany*, 46 FR 32698 (June 24, 1981).

Finally, the Department has determined that, pursuant to section 732(c)(4)(A) of the Act, the petition contains adequate evidence of industry support and, therefore, polling is unnecessary. *See the Import Administration Antidumping Investigation Initiation Checklist, Industry Support section*, October 21, 2002 (the Initiation Checklist), on file in the Central Records Unit, Room B-099 of the main Department of Commerce building.

We determined that the petitioner has demonstrated industry support representing more than 50 percent of total production of the domestic like product. Therefore, the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product, and the requirements of section 732(c)(4)(A)(i) of the Act are met. Furthermore, because the petitioner represents more than 50 percent of total production of the like product, the domestic producers or workers who support the petition account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition. Thus, the requirements of section 732(c)(4)(A)(ii) are also met. In addition, the Department received no opposition to the petition. Accordingly, we determine that this petition is filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Export Price and Normal Value

The following are descriptions of the allegations of sales at less than fair value upon which the Department based its

¹ *See Algoma Steel Corp. Ltd., v. United States*, 688 F. Supp.639, 642-44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380-81 (July 16, 1991).

decision to initiate this investigation. The sources of data relating to U.S. and home market prices and factors of production are discussed in greater detail in the Initiation Checklist. Should the need arise in our preliminary or final determinations to use any of this information as facts available under section 776 of the Act, we may re-examine the information and revise the margin calculations, if appropriate.

Regarding information involving non-market economy countries (NME), the Department presumes, based on the extent of central government control in an NME, that a single dumping margin, should there be one, is appropriate for all NME exporters in the given country. In the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of the country's NME status and the granting of separate rates to individual exporters. *See, e.g., Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994).

Export Price

The petitioner based export price (EP) on price quotes from several Chinese exporters within the period of investigation (POI) for the sale of powdered and calcined barium carbonate produced in the PRC. The petitioner calculated a net U.S. price by deducting inland freight expenses in the PRC using a surrogate value for rail freight in accordance with our NME calculation methodology.

Normal Value

The petitioner alleges that the PRC is an NME country, and notes that in all previous investigations the Department has determined that the PRC is an NME. *See, e.g., Notice of Final Determination in the Less Than Fair Value Investigation of Steel Wire Rope From the People's Republic of China*, 66 FR 12759, 12761 (Feb. 28, 2001). In accordance with section 771(18)(C) of the Act, any determination that a foreign country has at one time been considered an NME shall remain in effect until revoked. Therefore, the PRC will continue to be treated as an NME country unless and until its NME status is revoked. Pursuant to section 771(18)(C)(i) of the Act, because the PRC's status as an NME remains in effect, the petitioner determined the dumping margin using an NME analysis.

The petitioner asserts that India is the most appropriate surrogate country for the PRC, claiming that India is: (1) A market economy; (2) a significant

producer of comparable merchandise; and (3) at a level of economic development comparable to that of the PRC in terms of per-capita gross national income. Based on the information provided by the petitioner, we believe that the petitioner's use of India as a surrogate country is appropriate for purposes of initiation of this investigation.

The petitioner estimated the quantities of inputs required to produce powdered and calcined barium carbonate in the PRC based on the petitioner's own experience and adjusted for known differences in production in the PRC. These known differences include: (1) The use of coal as a fuel source and as a material input to reduce barite ore; (2) the production of carbon dioxide gas by heating limestone; and (3) the use of kerosene to heat the calciner.

For valuing the inputs, the petitioner attempted to use contemporaneous price data for the anticipated POI where it was available. Where this was not the case, the petitioner used information otherwise available as detailed below. The petitioner valued inputs of steam coal, limestone, lime, alum, and flocculant using Indian import statistics recorded for the months of January to June 2001 in the Monthly Statistics of the Foreign Trade of India. Barite ore was valued using a contemporaneous price quote from an Australian producer of barite ore because the petitioner demonstrated that the Indian import statistics value was abberationally high and the petitioner was unable to find an import value for any other possible surrogate country. The values for ferrous sulfate and sodium sulfate were based on the values reported in the publication *Chemical Weekly* for the period January to June 2002. The value for calcium sulfate was based on a publicly available price quote from a price list published on the Internet by Indian Chemical Industries (*see* <http://www.indian-chemicals.com>). A value for water was based on the average industrial price in four Indian metropolitan areas for the period 1995–1997 as reported in the Second Water Utilities Data Book: Asian and Pacific Region (1997). Electricity was valued using data from the 2001–02 Annual Report on the Working of State Electricity Boards published by the Power and Energy Division of the Planning Commission of India. All surrogate values that fell outside the anticipated POI, January 1, 2002, through June 30, 2002, were adjusted for inflation using sector-specific price indices (for electricity) and wholesale price indices (for all other inputs).

To determine factory overhead, selling, general and administrative (SG&A) expenses, and financial expenses and profit, the petitioner relied on rates derived from the financial statements of National Peroxide Ltd. (NPL) and Calibre Chemicals (CC), which are two Indian producers of bulk chemicals. Based on the information provided by the petitioner, we believe that the surrogate values represent information reasonably available to the petitioner and are acceptable for purposes of initiation of this investigation. Because the Department normally includes only operational income in calculating surrogate profit rates, we reduced NPL's profit rate to zero after deducting non-operational income (from property development) from its overall income.

Based upon a comparison of EP to adjusted normal value (NV), the revised estimated dumping margins range from 214.17 to 308.18 percent.

Fair Value Comparison

Based on the data provided by the petitioner, there is reason to believe that imports of barium carbonate from the PRC are being, or are likely to be, sold at less than fair value.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the individual and cumulated imports of the subject merchandise sold at less than NV.

The petitioner contends that the industry's injured condition is evident by a decline in prices, declining profitability, reduced levels of capacity utilization, declining shipments, lost sales and revenue due to PRC imports, and declining market share. The allegations of injury and causation are supported by relevant evidence including ITC import data, lost sales and revenue data, and pricing information. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See* the Initiation Checklist.

Initiation of Antidumping Investigation

Based upon our examination of the petition on barium carbonate, we have found that it meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether

imports of barium carbonate from the PRC are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended pursuant to section 733(b)(1)(A) of the Act, we will make our preliminary determination no later than 140 days after the date of this initiation.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representative of the government of the PRC. We will attempt to provide a copy of the public version of the petition to each exporter named in the petition, as provided for under 19 CFR 351.203(C)(2).

ITC Notification

We have notified the ITC of our initiation as required by section 732(d) of the Act.

Preliminary Determination by the ITC

The ITC will determine no later than November 14, 2002, whether there is a reasonable indication that imports of barium carbonate from the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: October 21, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

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