

duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

These preliminary results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 3, 2003.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-847]

#### **Persulfates from the People's Republic of China: Notice of Preliminary Results of Changed Circumstances Review**

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

**EFFECTIVE DATE:** October 10, 2003.

**FOR FURTHER INFORMATION CONTACT:**

Mike Strollo or Patrick Connolly at (202) 482-0629 or (202) 482-1779, respectively, Office of AD/CVD Enforcement, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

**SUMMARY:** On February 21, 2003, in response to a request by FMC Corporation, a U.S. producer of persulfates and an interested party in this proceeding, the Department of Commerce initiated a changed circumstances review of the antidumping duty order on persulfates from the People's Republic of China, as described below.

We preliminarily determine that Degussa-AJ (Shanghai) Initiators Co., Ltd.'s factors of production have not changed substantially since Degussa AG's investment in Shanghai Ai Jian Reagent Works. As a result, the Department will consider in any future revocation inquiry any administrative reviews in which Shanghai Ai Jian Import and Export Corporation procured its products exported to the United States from Shanghai Ai Jian Reagent Works. Interested parties are invited to comment on these preliminary results.

**SUPPLEMENTARY INFORMATION:**

#### **Background**

On July 7, 1997, the Department published in the **Federal Register** the antidumping duty order on persulfates from the PRC. See *Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Persulfates From the People's Republic of China*, 62 FR 36259 (July 7, 1997). In addition, on August 27, 2002, the Department initiated an administrative review of the antidumping duty order on persulfates covering one exporter from the People's Republic of China (PRC), Shanghai Ai Jian Import and Export Corporation (Ai Jian). See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 67 FR 55000 (Aug. 27, 2002). As part of its request for review, Ai Jian asked the Department to revoke the antidumping duty order with respect to its exports produced by Ai Jian's supplying factory, Shanghai Ai Jian Reagent Works (AJ Works).

On January 7, 2003, FMC Corporation (FMC), a U.S. producer of persulfates, notified the Department that Degussa AG, a German company, had purchased 70 percent of AJ Works and that, as a result, the name of the factory had been changed to Degussa (Shanghai) Initiators Co., Ltd. (Degussa-AJ). FMC requested that the Department initiate a changed circumstances review to determine whether Degussa-AJ is, in fact, the successor-in-interest to AJ Works, and hence, whether it should be considered the same entity with regards to the pending revocation request.

Based on the information submitted by FMC regarding Degussa AG's investment in AJ Works, the Department determined that there was sufficient evidence of changed circumstances to warrant a review under section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216(d). Consequently, the Department published a notice of initiation of this review on February 28, 2003. See *Persulfates from the People's Republic of China: Notice of Initiation of Changed Circumstances Review*, 68 FR 9636 (Feb. 28, 2003) (*Initiation Notice*). The Department denied FMC's request that the Department issue preliminary results of the changed circumstances review in conjunction with the notice of initiation because FMC did not provide sufficient evidence to support a preliminary finding. The Department invited comments from interested parties in the initiation notice and stated that it would publish in the **Federal Register** a notice of preliminary results of changed circumstances

review, in accordance with 19 CFR 351.222(c)(3)(i), prior to the issuance of the final results.

Since the Department's notice of initiation of this review, the following events have occurred:

On March 11, 2003, the Department issued a questionnaire to Degussa-AJ requesting details of Degussa AG's investment in AJ Works and its impact on the production operations of Degussa-AJ. Ai Jian and Degussa-AJ (collectively, Ai Jian/Degussa) responded to this questionnaire on April 1, 2003.

On March 19, 2003, Ai Jian withdrew its request for revocation in the 2001-2002 administrative review.

On May 1, 2003, the petitioner submitted a letter in which it argued that Degussa-AJ is not the successor-in-interest to AJ Works. The petitioner further argued that the Department should assign the PRC-wide rate to all imports from Ai Jian, retroactive to the date of Degussa AG's purchase of AJ Works. Ai Jian/Degussa responded to these arguments on May 12, 2003.

On May 2, 2003, the Department issued a supplemental questionnaire to Ai Jian/Degussa. Ai Jian/Degussa responded to this questionnaire on May 23, 2003.

On July 31, 2003, the petitioner requested that the Department conduct an administrative review of Ai Jian covering the period July 1, 2002, through June 30, 2003.

#### **Scope Of Review**

The products covered by this review are persulfates, including ammonium, potassium, and sodium persulfates. The chemical formula for these persulfates are, respectively,  $(\text{NH}_4)_2\text{S}_2\text{O}_8$ ,  $\text{K}_2\text{S}_2\text{O}_8$ , and  $\text{Na}_2\text{S}_2\text{O}_8$ . Potassium persulfates are currently classifiable under subheading 2833.40.10 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Sodium persulfates are classifiable under HTSUS subheading 2833.40.20. Ammonium and other persulfates are classifiable under HTSUS subheadings 2833.40.50 and 2833.40.60. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this review is dispositive.

#### **Preliminary Results**

The Department conducts successor-in-interest inquiries under section 751(b) of the Act and 19 CFR 351.216 and 221(c)(3) (*i.e.*, the provisions governing changed circumstances reviews). Because these provisions do not provide explicit guidance, the Department has developed the following framework for conduct of these reviews.

Specifically, in making a normal successor-in-interest determination, the Department examines several factors including, but not limited to, changes in: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base. See *Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review: Polychloroprene Rubber From Japan*, 67 FR 58 (Jan. 2, 2002) (*Polychloroprene Rubber from Japan*), and *Brass Sheet and Strip from Canada: Notice of Final Results of Antidumping Administrative Review*, 57 FR 20460 (May 13, 1992) (*Brass Sheet and Strip from Canada*). While no one of these factors is dispositive, the Department will generally consider the new company to be the successor to the previous company if its resulting operation is not materially dissimilar to that of its predecessor. See *Industrial Phosphoric Acid from Israel: Final Results of Changed Circumstances Review*, 59 FR 6944 (Feb. 14, 1994).

This analytical framework is tailored for exporters of subject merchandise, because any findings made pursuant to changed circumstances reviews are intended to apply to entities assigned their own specific cash deposit rates. Because the circumstances here involve a significant investment by a market economy company in a producer located in a nonmarket economy country (NME), not an exporter assigned a separate cash deposit rate, the analysis applied here differs from determinations in other changed circumstances reviews. See the *Initiation Notice*, 68 at FR 9637.

The Department's general practice in cases involving NME countries is to assign rates to exporters rather than producers because the exporters are the entities that determine the price at which the subject merchandise is sold to the United States. See *Notice of Final Determination of Sales at Less Than Fair Value: Persulfates From the People's Republic of China*, 62 FR 27222, 27228 (May 19, 1997) (*Persulfates LTFV Final*). See also *Manganese Metal from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 63 FR 12441, 12449 (Mar. 13, 1998). See also *Notice of Final Determination of Sales at Less Than Fair Value: Pure Magnesium in Granular Form From the People's Republic of China*, 66 FR 49345 (Sept. 27, 2001) and accompanying decision memorandum at *Comment 2*. See also *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27295, 27303 (May 19, 1997). In the event that an exporter may qualify for revocation, however, such revocation normally is

limited to merchandise of certain producers. The regulations address revocation determinations involving non-producing exporters:

In the case of an exporter that is not the producer of subject merchandise, the Secretary normally will revoke an order in part under paragraph (b)(2) of this section only with respect to subject merchandise produced or supplied by those companies that supplied the exporter during the time period that formed the basis for the revocation.

See 19 CFR 351.222(b)(3).

Therefore, this changed circumstances review has relevance only to the extent that it will impact Ai Jian's future revocation eligibility. Pursuant to 19 CFR 351.222(b)(3), the Department will revoke an exporter (*e.g.*, Ai Jian) from an order only with respect to subject merchandise produced or supplied by the producer(s) that supplied the exporter during the time period that forms the basis for the revocation (*i.e.*, three consecutive years). Should the Department find that the factors of production have not changed substantially since Degussa AG's investment in AJ Works, the Department will consider in any future revocation inquiry any administrative reviews in which Ai Jian procured its products exported to the United States from AJ Works. On the contrary, should the Department find at the final results of this changed circumstances review that the factors of production of Degussa-AJ have changed so substantially from the merchandise produced by AJ Works that the resulting operation is materially dissimilar to that of its predecessor, Ai Jian will need to complete three new administrative reviews with Degussa-AJ, its "new" supplier, before it may qualify for revocation.

In order to evaluate whether Degussa AG's investment in AJ Works impacts the Department's previous dumping findings made with respect to Ai Jian, therefore, we have focused our analysis on any changes in Degussa-AJ's factors of production. Under the Department's NME methodology, these factors of production form the basis for normal value and, as a result, are an essential component of the margin calculated for Ai Jian. Therefore, we examined the following areas in making our determination: (1) management; (2) production facilities; and (3) supplier relationships. Because Degussa-AJ's customer base is not relevant to our

analysis, it is not necessary to address this component.<sup>1</sup>

In its April 1 and May 23, 2003, submissions, Degussa-AJ stated that there were no changes to its production facilities, production process, or product line since Degussa AG's investment in AJ Works.

Degussa-AJ explained that AJ Works began to undertake two changes to its ammonium persulfate workshop in early 2002. Degussa-AJ has continued work on these improvements, which were ongoing as of the submission date of Degussa-AJ's last questionnaire response. Specifically, Degussa-AJ is expanding its production capacity for producing ammonium persulfate and, in addition, is working on a process improvement to decrease the yield loss of one of the factors of production, ammonium sulfate, which should reduce the consumption of this material input in the production process. With the exception of these two ongoing changes to its ammonium persulfate workshop, Degussa-AJ has only evaluated, but not initiated, any other changes to its production facilities and production process.

Additionally, Degussa-AJ has not determined when the evaluation of other improvements to its production facilities or production process will be complete, much less when actual changes might take place. Therefore, although there are two ongoing improvements to Degussa-AJ's production facilities and production process that should impact one of the factors of production (*i.e.*, self-produced ammonium sulfate), nothing in the respondent's questionnaire responses indicates that there have been any other changes, as of the date of the most recent questionnaire response, to Degussa-AJ's factors of production for persulfates as a result of Degussa AG's investment in AJ Works.

In addition to an examination of any changes to the production facility and production process, the Department

<sup>1</sup> We have not considered changes to Degussa-AJ's customer base in making our determination because: (1) any such changes do not have a substantive bearing on the company's factors of production; and (2) normally the Department considers neither an NME entity's home market customer base nor its home market sales transactions in making NME antidumping duty determinations. Furthermore, Degussa-AJ is merely a producer of subject merchandise and does not have its own separate antidumping duty rate. Were Degussa-AJ to sell subject merchandise to the United States, these entries would fall under the China-wide rate of 119.02 percent, not Ai Jian's rate. Changes to Degussa-AJ's customer base, therefore, would influence neither Degussa-AJ's nor Ai Jian's antidumping duty rate. For purposes of this determination, therefore, changes to Degussa-AJ's customer base do not have relevance.

examined other changes at Degussa-AJ. Although there were significant changes to Degussa-AJ's board of directors as a result of Degussa AG's investment in AJ Works, the factory management team has remained largely intact, and those employees now serve in the same or similar capacities as before Degussa AG's investment in AJ Works. Finally, there have been no changes to Degussa-AJ's suppliers or supplier relationships since Degussa AG's investment in AJ Works. For further discussion, see the October 3, 2003, memorandum to James J. Jochum, Assistant Secretary for Import Administration, from Jeffrey May, Deputy Assistant Secretary, Group I, entitled "Factors of Production Analysis With Respect to Merchandise Considered for Revocation."

Based on the information submitted by Ai Jian/Degussa, we preliminarily determine that Degussa-AJ's factors of production have not changed substantially since Degussa AG's investment in AJ Works. As a result, the Department will consider in any future revocation inquiry any administrative reviews in which Ai Jian procured its products exported to the United States from AJ Works. The current requirements for the cash deposit of estimated antidumping duties on the subject merchandise are not impacted by this determination.

#### Public Comment

Interested parties may request a hearing within 14 days after the publication of this notice. Any hearing, if requested, will be held 30 days after the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs not later than 14 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 19 days after the date of publication of this notice. Parties who submit comments or rebuttal briefs in this proceeding are requested to submit with the argument: (1) a statement of the issue, and (2) a brief summary of the argument (no longer than five pages, including footnotes). In accordance with 19 CFR 351.216(e), the Department will issue its final results of review within 270 days after the date on which the changed circumstances review was initiated (*i.e.*, no later than November 18, 2003).

This notice is published in accordance with sections 751(b)(1) and (d) and 777(i) of the Act, and with 19 CFR 351.221(c)(3).

Dated: October 3, 2003.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A-427-820, A-428-830, A-475-829, A-580-847, A-412-822]**

#### Notice of Amended Antidumping Duty Orders: Stainless Steel Bar From France, Germany, Italy, Korea, and the United Kingdom

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

**ACTION:** Notice of amended antidumping duty orders.

**EFFECTIVE DATE:** October 10, 2003.

#### FOR FURTHER INFORMATION CONTACT:

Andrew Smith or John Brinkmann, (202) 482-1276 or (202) 482-4126, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

#### Summary

The Department of Commerce is amending its antidumping duty orders in these investigations to bring them into compliance with section 733(d) of the Tariff Act of 1930, as amended. Specifically, these antidumping duty orders are amended to state that the suspension of liquidation ordered in the preliminary determinations in these investigations shall be discontinued for subject merchandise entered on or after January 29, 2002, through March 7, 2002.

#### Scope of Order

For purposes of this order, the term "stainless steel bar" includes 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. Stainless steel bar includes cold-finished stainless steel bars 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 having a width which exceeds 150 mm and measures at least twice the thickness), products that have been cut from stainless steel sheet, strip or plate, 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 stainless steel bar subject to this investigation 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, the written description of the scope of this investigation is dispositive.

#### Background

On August 2, 2001, the Department of Commerce ("the Department") preliminarily determined that stainless steel bar from France, Germany, Italy, Korea, and the United Kingdom was being sold in the United States at less than fair value ("LTFV"), as provided in section 735(a) of the Tariff Act of 1930, as amended ("the Act"). See 66 FR 40201 (August 2, 2001) for France; 66 FR 40208 (August 2, 2001) for Germany; 66 FR 40214 (August 2, 2001) for Italy; 66 FR 40222 (August 2, 2001) for Korea; 66 FR 40192 (August 2, 2001) for the United Kingdom (collectively "*the SSBar Preliminary Determinations*")

Due to scheduling problems evolving from the events of September 11, 2001, the Department tolled the final determination deadlines in these investigations until January 15, 2002. On January 15, 2002, the Department determined that stainless steel bar from France, Germany, Italy, Korea, and the United Kingdom was being sold in the United States at LTFV, as provided in section 735(a) of the Act. See 67 FR 3143 (January 23, 2002) for France; 67 FR 3159 (January 23, 2002) for Germany; 67 FR 3155 (January 23, 2002) for Italy; 67 FR 3149 (January 23, 2002) for Korea; 67 FR 3146 (January 23, 2002) for the United Kingdom (collectively "*the SSBar Final Determinations*"). The Department subsequently amended the