

DEPARTMENT OF COMMERCE**Foreign-Trade Zones Board****[Docket 21-2003]****Foreign-Trade Zone 102—St. Louis, Missouri: Application For Foreign-Trade Subzone Status, Bayer CropScience (Agricultural Chemical Products); St. Louis, MO, Area**

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the St. Louis County Port Authority, grantee of FTZ 102, requesting special-purpose subzone status for the manufacturing facilities (agricultural chemical products) of Bayer CropScience LP, located in the St. Louis, Missouri area. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 29, 2003.

The Bayer CropScience facilities are located at two sites (15.77 acres, with up to eight buildings and 285,693 sq. ft. of enclosed space): Site # 1 (13.5 acres; four buildings with 26,790 sq. ft.; possible expansion to include three additional buildings with 160,000 sq. ft.)—located at 133 East Krauss Street in St. Louis; and Site # 2 (2.27 acres; one building with 98,303 sq. ft.)—located at 8921 Frost Avenue in Berkeley, Missouri. The facilities (approximately 50 full-time employees and contractors) produce agricultural chemical products, which Bayer CropScience intends to manufacture, test, package, and warehouse under FTZ procedures.

The company's application lists a wide variety of general HTS categories as potential inputs or finished products for manufacturing under subzone procedures. However, the company is only seeking FTZ authority for the input or finished-product categories listed in the application to be used in the manufacturing of plant growth regulators, seed treatments, and pesticides, including but not limited to insecticides and fungicides. Bayer CropScience indicates that initial U.S. value added will range from 10 to 30 percent.

The list of categories of imported parts and materials for possible use in the production, packaging, and distribution of plant growth regulators, seed treatments, and pesticides includes: Cane or beet sugar and sucrose; sugars, sugar syrups, artificial honey, and caramel; food preparations including protein concentrates and substances; oils and other products of coal tar; petroleum oils and mineral oils, or distillates; hydroxides and peroxides

of sodium or potassium; iron oxides and hydroxides; titanium oxides; hydrazine, hydroxylamine, other salts, inorganic bases, and metal oxides; fluorides, fluorosilicates, fluoroaluminates and other fluorine salts; chlorides, bromides, and iodides; dithianites and sulfoxylates; sulfites and thiosulfates; sulfates; phosphinates, phosphonates, phosphates, and polyphosphates; carbonates, peroxocarbonates and ammonium carbonate; silicates; borates and peroxoborates (perborates); salts of oxometallic or peroxometallic acids; other salts of inorganic acids or peroxyacids; radioactive chemical elements and radioactive isotopes, compounds, mixtures, and residues; compounds or rare-earth metals of yttrium or scandium; other inorganic compounds; halogenated derivatives of hydrocarbons; derivatives of hydrocarbons; acyclic alcohols and derivatives; phenols and phenol-alcohols, and their derivatives; ethers, ether-alcohols, ether-phenols, ether-alcohol-phenols, alcohol peroxides, ether peroxides, ketone peroxides, and their derivatives; epoxides, epoxyalcohols, epoxyphenols, and epoxyethers, and their derivatives; acetals and hemiacetals, and their derivatives; aldehydes and derivatives; ketones and quinones; saturated acyclic monocarboxylic acids and derivatives; unsaturated acyclic or cyclic monocarboxylic acids and derivatives; phosphoric esters, salts, and derivatives; esters of other inorganic salts, and their salts and derivatives; amine function compounds; oxygen-function amino-compounds; quaternary ammonium salts and hydroxides, lecithins, and other phosphoaminolipids; carboxamide-function compounds and amide-function compounds of carbonic acid; carboximide-function and imine-function compounds; nitrile-function compounds; diazo-, azo-, or azoxy-compounds; organic derivatives of hydrazine or of hydroxylamine; compounds with other nitrogen function; organo-sulfur compounds; other organo-inorganic compounds; heterocyclic compounds, including with oxygen hetero-atoms only and nucleic acids and their salts; sulfonamides; glycosides and their salts, ethers, esters, and derivatives; sugars, chemically pure, other than sucrose, lactose, maltose, glucose, and fructose; sugar ether and sugar esters and their salts; other organic compounds; organic surface-active agents; lubricating preparations; artificial waxes and prepared waxes; gelatin and derivatives; dextrans and other modified starches;

prepared glues and other prepared adhesives; activated carbon, activated natural mineral products, and animal black; insecticides, rodenticides, fungicides, herbicides, antisprouting products and plant-growth regulators, disinfectants, and similar products; reaction initiators and accelerators, and catalytic preparations; industrial monocarboxylic fatty acids, acid oils from refining, and industrial fatty alcohols; prepared binders for foundry molds or cores, chemical products and preparations of the chemical or allied industries, and residual products of those industries; polymers of vinyl acetate or of vinyl esters, and other vinyl polymers; acrylic polymers in primary forms; polyacetals, other polyethers, and epoxide resins, polycarbonates, alkyd resins, polyallyl esters, and other polyesters, in primary forms; silicones in primary forms; petroleum resins, coumarone-indene resins, polyterpenes, polysulfides, polysulfones and other products, in primary forms; cellulose and its chemical derivatives; natural polymers and modified natural polymers in primary forms; ion-exchangers based on polymers; self-adhesive plates, sheets, film, foil, tape, strip and other flat shapes, of plastic; other plates, sheets, film, foil, and strip, of plastics; other articles of plastic; articles for the conveyance or packing of goods, of plastics, and stoppers, lids, caps, and other closures, of plastics; other articles of vulcanized rubber; carboys, bottles, flasks, jars, pots, vials, ampoules, preserving jars, stoppers, lids, and other containers or closures of glass; aluminum foil; magnesium and articles thereof; stoppers, caps, and lids; and taps, cocks, valves, and similar appliances. Current duty rates for these input materials range up to 9.6 percent.

Zone procedures would exempt Bayer CropScience from Customs duty payments on foreign components used in export production. On its domestic sales, Bayer CropScience would be able to defer duty payments, and to choose the lower duty rate that applies to the listed finished-product categories (duty-free to 7.8 percent) for the foreign inputs listed above, among others. Bayer CropScience would be able to avoid duty on foreign inputs which become scrap/waste, estimated at less than 2 percent of imported inputs. The application also indicates that Bayer CropScience may benefit from savings derived from zone-to-zone transfers of merchandise and from simplification of the company's import and export procedures. All of the above-cited savings from zone procedures could

help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions Via Express/Package Delivery Services: Foreign-Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th St. NW., Washington, DC 20005; or

2. Submissions Via the U.S. Postal Service: Foreign-Trade-Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave. NW., Washington, DC 20230.

The closing period for their receipt is July 7, 2003. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to July 21, 2003.

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at address Number 1 listed above, and at the U.S. Department of Commerce Export Assistance Center, 8235 Forsyth Blvd., Suite 520, St. Louis, MO 63105.

Dated: April 29, 2003.

Dennis Puccinelli,

Executive Secretary.

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DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties

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

ACTION: Notice of policy concerning assessment of antidumping duties

SUMMARY: The Department of Commerce hereby issues clarification on the automatic-liquidation regulation where a reseller has been involved in the chain of commerce.

FOR FURTHER INFORMATION CONTACT: Laurie Parkhill, Office 3, Import Administration, at 202-482-4733, or Patrick Gallagher, Office of Chief

Counsel for Import Administration, at 202-482-5053.

EFFECTIVE DATE: May 1, 2003 (*see* discussion below).

SUPPLEMENTARY INFORMATION: This notice clarifies the Department of Commerce's (the Department's) regulation, 19 CFR 351.212(c), regarding automatic liquidation where an intermediary (*e.g.*, a reseller, a trading company, an exporter) exports the merchandise. This notice uses the term "reseller" to apply to any intermediary that could be an interested party as defined in section 771(9)(A) of the Tariff Act of 1930, as amended (the Act).

Background

On October 15, 1998, the Department published a proposed clarification of the Department's position on the automatic-liquidation procedures for a reseller and invited public comment on that clarification. *See Notice and Request for Comment on Policy Concerning Assessment of Antidumping Duties*, 63 FR 55361. On November 12, 1998, we published a notice of *Rebuttal Period for Comments on Policy Concerning Assessment of Antidumping Duties* (63 FR 63288) which extended the period for initial comments to November 13, 1998, established a rebuttal period until December 4, 1998, and provided for the submission of comments and rebuttal in an electronic format for posting to the Import Administration internet home page. The Department received several written comments and rebuttals regarding the proposed assessment clarification. Given the time which had elapsed since the original publication of the proposal, on March 25, 2002, the Department published a notice of an additional one-week comment period (67 FR 13599). The Department received additional comments by April 1, 2002.

In preparing this final clarification, the Department reviewed and considered each of the comments it received carefully. Although we received several comments after the originally established deadlines, we have decided to consider and respond to all comments in order to allow for a thorough analysis of this issue.

As described in the October 15, 1998, **Federal Register** notice, automatic liquidation at the cash-deposit rate required at the time of entry can only apply to a reseller which does not have its own rate if no administrative review has been requested, either of the reseller or of any producer of merchandise the reseller exported to the United States. If the Department conducts a review of a producer of the reseller's merchandise where entries of the merchandise were

suspended at the producer's rate, automatic liquidation will not apply to the reseller's sales. If, in the course of an administrative review, the Department determines that the producer knew, or should have known, that the merchandise it sold to the reseller was destined for the United States, the reseller's merchandise will be liquidated at the producer's assessment rate which the Department calculates for the producer in the review. If, on the other hand, the Department determines in the administrative review that the producer did not know that the merchandise it sold to the reseller was destined for the United States, the reseller's merchandise will not be liquidated at the assessment rate the Department determines for the producer or automatically at the rate required as a deposit at the time of entry. In that situation, the entries of merchandise from the reseller during the period of review will be liquidated at the all-others rate if there was no company-specific review of the reseller for that review period.

Analysis of Comments Received

Comment 1: The Canadian Government contends that Canadian enterprises, due to the integrated nature of the North American market and the consequent special nature of Canadian/U.S. trade, will bear the preponderance of the impact of any such change in policy.

Response: We have found no evidence to indicate that this clarification will have a greater impact on any segment of the market or any of our trading partners.

Comment 2: The Canadian Government comments that the Department's proposal would essentially remove the provisions of 19 CFR 351.212(c)(1) with respect to resellers without providing an explanation of the circumstances that gave rise to the proposed clarification of the policy. It argues further that the Department must provide evidence as to why such a change is necessary in order to justify a policy change which would be detrimental for many resellers and it questions whether the integrity of an antidumping duty order has been harmed through the imports from a reseller.

Response: In various proceedings parties have claimed that entries should be liquidated at many different rates in cases where entries involving resellers have not been reviewed. Parties have claimed, depending on the situation, that the results of the Department's review of the producer should apply,