

## International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise within 45 days of this final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

### Notification Regarding APO

This notice also serves as a reminder to the parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: June 30, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E8-15488 Filed 7-7-08; 8:45 am]

BILLING CODE 3510-DS-S

## DEPARTMENT OF COMMERCE

### International Trade Administration

A-428-841

### Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany

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

**SUMMARY:** The U.S. Department of Commerce (the Department) determines that imports of sodium nitrite from the Federal Republic of Germany (Germany) are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The final weighted-average dumping margins are listed below in the section entitled "Final Determination of Investigation."

**EFFECTIVE DATE:** July 8, 2008.

#### FOR FURTHER INFORMATION CONTACT:

Brian C. Smith or Gemal Brangman, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482 1766 or (202) 482 3773, respectively.

#### SUPPLEMENTARY INFORMATION:

#### Background

On April 23, 2008, the Department published the preliminary determination of sales at LTFV in the antidumping investigation of sodium nitrite from Germany. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany*, 73 FR 21909 (April 23, 2008) (*Preliminary Determination*). We invited parties to comment on the *Preliminary Determination*. We received case briefs from the petitioner, General Chemical LLC, and the respondent, BASF AG (BASF), on May 23, 2008. The petitioner submitted a rebuttal brief on May 28, 2008. No party requested a hearing.

#### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping investigation are addressed in the "Issues and Decision Memorandum for the Final Determination in the Less-Than-Fair-Value Investigation of Sodium Nitrite from the Federal Republic of Germany" (Decision Memorandum) from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, dated June 30, 2008, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in the Decision Memorandum, which is on file in the Central Records Unit, room 1117, of the main Department Building. In addition, a complete version of the Decision Memorandum can be accessed

directly on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the Decision Memorandum are identical in content.

#### Period of Investigation

The period of investigation is October 1, 2006, through September 30, 2007.

#### Scope of the Investigation

The merchandise covered by this investigation is sodium nitrite in any form, at any purity level. In addition, the sodium nitrite covered by this investigation may or may not contain an anti-caking agent. Examples of names commonly used to reference sodium nitrite are nitrous acid, sodium salt, anti-rust, diazotizing salts, erinitrit, and filmerine. The chemical composition of sodium nitrite is NaNO<sub>2</sub> and it is generally classified under subheading 2834.10.1000 of the Harmonized Tariff Schedule of the United States (HTSUS). The American Chemical Society Chemical Abstract Service (CAS) has assigned the name "sodium nitrite" to sodium nitrite. The CAS registry number is 7632-00-0.

While the HTSUS subheading, CAS registry number, and CAS name are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

#### Adverse Facts Available

For the final determination, we continue to find that, by failing to respond to the antidumping duty questionnaire, BASF, the sole mandatory respondent in this investigation, did not act to the best of its ability in this investigation. Therefore, the use of adverse facts available (AFA) is warranted for this company under sections 776(a)(2) and (b) of the Act. *See Preliminary Determination*, 73 FR at 21909-21910. As we explained in the *Preliminary Determination*, we selected as the AFA rate the highest margin alleged in the petition, 237.00 percent, as referenced in the notice of initiation. *See Sodium Nitrite from the Federal Republic of Germany and the People's Republic of China: Initiation of Antidumping Duty Investigations*, 73 FR 68563, 68567 (December 5, 2007). Further, as discussed in the *Preliminary Determination*, we corroborated the AFA rate pursuant to section 776(c) of the Act. *See Preliminary Determination*, 73 FR at 21910-21912, and Comment 1 of the Decision Memorandum accompanying this notice for further discussion.

### All-Others Rate

For the final determination, we have continued to assign as the all-others rate the simple average of the margins in the petition in accordance with the Department's current practice. See *Preliminary Determination*, 73 FR at 21912, and Comment 2 of the Decision Memorandum accompanying this notice for further discussion.

### Final Determination of Investigation

We determine that the following weighted-average dumping margins exist for the period October 1, 2006, through September 30, 2007:

Manufacturer/exporter	Margin (percent)
BASF AG .....	237.00
All Others .....	150.82

### Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of subject merchandise from Germany, entered, or withdrawn from warehouse, for consumption on or after April 23, 2008, the date of publication of the *Preliminary Determination*. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average dumping margins, as indicated in the chart above, as follows: (1) the rate for the firm listed above will be the rate we have determined in this final determination; (2) if the exporter is not a firm identified in this investigation, but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 150.82 percent.<sup>1</sup> These suspension-of-liquidation instructions will remain in effect until further notice.

### International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our final determination. As our final determination is affirmative and in accordance with section 735(b)(2) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC

<sup>1</sup> This rate was incorrectly stated as 237.00 percent in the "Suspension of Liquidation" section of the *Preliminary Determination*. See *Preliminary Determination*, 73 FR at 21912.

determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

### Notification Regarding APO

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This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: June 30, 2008.

**David M. Spooner**,  
*Assistant Secretary for Import Administration.*

### Appendix—Issues in Decision Memorandum

#### Comments

Issue 1: Selection of the Adverse Facts Available Rate for BASF  
Issue 2: Selection of the All-Others Rate  
[FR Doc. E8-15458 Filed 7-7-08; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XI83**

### Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator), has made a preliminary determination that an Exempted Fishing Permit (EFP) application submitted by the University of New England (UNE) and the New England Aquarium (NEA) contains all of the required information and warrants

further consideration. The Assistant Regional Administrator has made a preliminary determination that the activities authorized under this EFP would be consistent with the goals and objectives of the Northeast (NE) Skate Complex and NE Multispecies Fishery Management Plans (FMPs). However, further review and consultation may be necessary before a final determination is made to issue an EFP. Therefore, NMFS announces that the Assistant Regional Administrator proposes to recommend that an EFP be issued that would allow two commercial fishing vessels to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. This EFP, which would enable researchers to study the immediate and short-term post-release mortality of skates, would grant exemptions from the regulations as follows: Retaining, possessing, or landing prohibited skate species, and skate possession limits for sampling purposes.

Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed EFPs.

**DATES:** Comments must be received on or before July 23, 2008.

**ADDRESSES:** You may submit written comments by any of the following methods:

• Email: [DA8-145@noaa.gov](mailto:DA8-145@noaa.gov). Include in the subject line "Comments on UNE/NEA skate bycatch mortality EFP."

• Mail: Patricia A. Kurkul, Regional Administrator, NMFS, NE Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on UNE/NEA skate bycatch mortality EFP, DA8-145."  
• Fax: (978) 281-9135.

**FOR FURTHER INFORMATION CONTACT:** Emily Bryant, Fishery Management Specialist, 978-281-9244.

**SUPPLEMENTARY INFORMATION:** An application for an EFP was submitted on June 12, 2008, by Dr. James Sulikowski, from the Marine Science Center of UNE, for a project funded by the NOAA Saltonstall-Kennedy Grant Program. The primary goal of this project is to provide data to determine the immediate and short-term survivability of winter, smooth, little, and thorny skates. This research could provide valuable information for future skate management objectives. Results will be provided to the Northeast Fisheries Science Center and the New England Fishery Management Council. Researchers will also disseminate