

March 12, 2010

MEMORANDUM TO: Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

FROM: John M. Andersen
Acting Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

RE: Final Results of Proceeding Under Section 129 of the Uruguay
Round Agreements Act (URAA): Antidumping Measures on
Purified Carboxymethylcellulose from the Netherlands

SUBJECT: Issues and Decision Memorandum for the Final Results

Summary

This memorandum addresses comments submitted by the European Commission (EC) regarding the above-referenced proceeding.

Background

The Department issued its preliminary results in this proceeding on December 17, 2009. See Memorandum from John M. Andersen to Ronald K. Lorentzen entitled “Calculation of the Weighted-Average Dumping Margins” (Preliminary Results). Since we issued the Preliminary Results, the Department received a letter, submitted by the European Commission (EC),¹ discussing the sole issue below.

Discussion of the Issue

Comment 1: Whether the Department’s section 129 Proceeding Should Recalculate Margins in Subsequent Administrative Reviews

The European Commission (EC) submitted on the record of this section 129 proceeding, a letter commenting that the preliminary section 129 results, and three other preliminary section 129 results concurrently issued by the Department, improperly cover only the Department determinations in the four separate original antidumping investigations.² The EC asserts that the

¹ See letter from the European Commission in Zeroing – DS350/section 129 proceeding (dated January 15, 2010).

² The four original antidumping investigations are chlorinated isocyanurates from Spain and purified carboxymethylcellulose from Finland, the Netherlands, and Sweden. See Chlorinated Isocyanurates from Spain: Notice of Final Determination of Sales at Less Than Fair Value, 70 FR 24506 (May 10, 2005), Notice of Final

subsequent administrative reviews fall within the scope of implementation and, thus, the relevant dumping margins in those reviews should be recalculated without zeroing. Similarly, the EC argues that the preliminary section 129 results improperly cover four of the eighteen antidumping cases challenged in the DS350 dispute.³

The EC states that, regarding four of the cases challenged in the DS350 dispute, the Appellate Body explicitly ruled the use of zeroing to be World Trade Organization (WTO) inconsistent in all future reviews, and that the established WTO case law makes clear that reviews conducted subsequent to the challenged measure must be free of zeroing. These issues, argues the EC, should be addressed within the section 129 results.

Finally, the EC argues that the United States is required at the end of the reasonable period of time to recalculate cash deposit rates for the cases at issue and must only liquidate duties at non-zeroed rates. The EC argues that these issues should also be included within the section 129 results.

The Department received no other comments on the preliminary results in this section 129 proceeding.

Department's Position:

The Department has determined not to make changes to the preliminary results in this section 129 proceeding. We note that the EC has not commented upon any substantive finding within the Department's preliminary results. In particular, the EC does not argue that the Department's preliminary dumping margins are inaccurate or improper or that such margins should be changed in any way in the Department's final section 129 results. Rather, the EC's comments involve only the scope of this section 129 proceeding, and the three concurrent section 129 proceedings. Accordingly, the Department has made no change to its preliminary margins for this final section 129 results.

With respect to the EC's comment that the Department should expand the scope of this section 129 proceeding to address other determinations at issue in the DS350 dispute, the Department disagrees that this proceeding is an appropriate forum in which to address determinations not identified in the U.S. Trade Representative's (USTR) request to the Department pursuant to section 129.⁴ Pursuant to section 129 of the Uruguay Round Agreements Act, the USTR directed the Department to issue a determination that would render the Department's

Determination of Sales at Less than Fair Value: Purified Carboxymethylcellulose from Finland, 70 FR at 28279 (May 17, 2005), Notice of Final Determination of Sales at Less than Fair Value: Purified Carboxymethylcellulose from Mexico, 70 FR at 28280 (May 17, 2005), Notice of Final Determination of Sales at Less than Fair Value: Purified Carboxymethylcellulose from the Netherlands, 70 FR at 28275 (May 17, 2005), and Notice of Final Determination of Sales at Less than Fair Value: Purified Carboxymethylcellulose from Sweden, 70 FR at 28278 (May 17, 2005).

³ See United States – Continued Existence and Application of Zeroing Methodology, WT/DS350/R.

⁴ See Memorandum from Ronald Kirk to Gary Locke, dated November 25, 2009.

determinations in the four original antidumping investigations not inconsistent with the findings of the Dispute Settlement Body (DSB) of the WTO. Consequently, the scope of this section 129 proceeding, and the three concurrent proceedings, properly encompass only the Department's determinations in those four original antidumping investigations. Additionally, because the Department is only recalculating the investigation rates in these section 129 proceedings, the issue of liquidation and the timing thereof, raised by the EC, is inapposite.

Final Antidumping Margins

The recalculated margins, unchanged from the Preliminary Results, are as follows:

<u>Manufacturer/Exporter</u>	<u>Final Determination</u> ⁵	<u>Re-calculated Margins</u> ⁶
Noviant B.V.	14.88%	12.15%
Akzo Nobel Surface Chemistry	13.39%	6.34%
All Others	14.57%	9.25%

Recommendation

In light of the Panel's findings, we recommend this determination which, if implemented, would render our original determination not inconsistent with the recommendations and rulings of the DSB by applying the methodology in the Antidumping Proceedings: Calculation of Weighted-Average Dumping Margin During an Antidumping Duty Investigation; Final Modification, 71 FR 77722 (December 27, 2006) and adopting the above-referenced recalculated weighted-average dumping margins.

Agree _____ Disagree _____

 Ronald K. Lorentzen
 Deputy Assistant Secretary
 for Import Administration

 Date

⁵ See Notice of Antidumping Duty Orders: Purified Carboxymethylcellulose from Finland, Mexico, the Netherlands and Sweden, 70 FR 39734 (July 11, 2005).

⁶ See Memorandum through Angelica Mendoza, Program Manager, to the File, Preliminary Recalculation of the Weighted Average Margin for Noviant BV and Akzo Nobel Surface Chemistry BV pursuant to the Preliminary Section 129 Determination in the Implementation of Findings of the WTO Panel in US – Continued Existence and Application of Zeroing Methodology, WT/DS350/R (EC-Zeroing II): Purified Carboxymethylcellulose ("CMC") from the Netherlands, dated December 17, 2009.