

Dated: June 7, 1999.

**Eileen M. Fitzgerald,**

*Acting Administrator, Rural Housing Service.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-840]

#### Initiation of Antidumping Duty Investigation: Acrylonitrile Butadiene Rubber From the Republic of Korea

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

**EFFECTIVE DATE:** June 23, 1999.

**FOR FURTHER INFORMATION CONTACT:**

Marian Wells, Annika O'Hara, or Ryan Langan, Office One, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-6309, 482-3798, and 482-1279, respectively.

#### Initiation of Investigation

##### *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 as amended ("the Act") by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the provisions codified at 19 CFR Part 351 (1998).

##### *The Petition*

On May 27, 1999, the Department of Commerce ("the Department") received a petition filed in proper form by Zeon Chemicals L.P. and Uniroyal Chemical Company, Inc., hereinafter collectively referred to as "the petitioners."

In accordance with section 732(b) of the Act, the petitioners allege that imports of acrylonitrile butadiene rubber from the Republic of Korea ("Korea") are being, 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 such imports are both materially injuring and threatening material injury to an industry in the United States.

The Department finds that the petitioners filed this petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and because

the petitioners have demonstrated that they represent, at a minimum, the required proportion of the United States industry (see "Determination of Industry Support for the Petition" section, below).

##### *Scope of the Investigation*

The product covered by this investigation is commonly referred to as acrylonitrile butadiene rubber or nitrile rubber ("NBR"). NBR is a synthetic rubber produced by the copolymerization of butadiene and acrylonitrile. NBR is sold in bale, slab, crumb, powder and latex form. NBR in the latex form is excluded from the scope of this investigation. Also excluded from the scope of this investigation is NBR containing additives, NBR containing rubber processing chemicals, and NBR containing other materials used for further processing beyond the copolymerization process. The merchandise subject to this investigation is classified in the *Harmonized Tariff Schedule of the United States* ("HTSUS") at subheading 4002.59.00. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

During our review of the petition, we discussed the scope of the investigation with the petitioners to ensure that the scope language accurately reflects the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to our regulations (62 FR 27323), 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 days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 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 its preliminary determination.

##### *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 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.

Section 771(4)(A) of the Act defines the "industry" as "the producers as a whole of a domestic like product." Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who account for production of 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, they do so for different purposes and pursuant to 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 domestic like product, such differences do not render the decision of either agency contrary to the law.<sup>1</sup> 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 analysis of the domestic like product 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.

The domestic like product identified in the petition is the single domestic like product defined in the "Scope of Investigation" section, above. The Department has no basis on the record to find this definition of the domestic like product to be inaccurate. Therefore, the Department has adopted this definition of the domestic like product.

In this case, the Department has determined that the petition contains evidence of sufficient industry support. Therefore, polling was not necessary. See Initiation Checklist dated June 16, 1999 (the public version is on file in the Central Records Unit of the Department of Commerce, Room B-099). Based on the record evidence, the producers who

<sup>1</sup> 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).

support the petition account for more than 50 percent of the production of the domestic like product. Additionally, no person who would qualify as an interested party pursuant to section 771(9)(C), (D), (E) or (F) of the Act has expressed opposition on the record to the petition. Accordingly, the Department determines that this petition is filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

On June 15, 1999, the Department received a letter from counsel for the potential respondents who argued that the Department should not initiate this investigation unless it determines, through polling, that the petition is supported by the U.S. industry. The basis for this request was the potential respondents' claim that one of the petitioners, Uniroyal, will cease its production of the subject merchandise in the United States in mid-1999 and move all of its production to Mexico. Thereby, Uniroyal would not be a U.S. producer, according to respondents. This fact was argued as outcome determinative that there was no industry support.

The Department has decided to continue to treat Uniroyal as a petitioner and interested party in this investigation. First, Uniroyal was producing the subject merchandise in the United States at the time the petition was filed and, to the best of our knowledge, the planned move to Mexico had not yet taken place at the time of this initiation of the investigation. Second, if we were to exclude Uniroyal, the companies supporting the petition would still exceed the required 25 percent of total production and more than 50 percent of the production produced by that portion of the industry expressing support for, or opposition to, the petition. If we were to accept the argument that Uniroyal no longer is a U.S. producer, we would exclude its production from both the numerator and the denominator in our calculation of industry support. Thus, it would not change industry support substantially and the Department's determination regarding industry support, mentioned above, would stand.

#### *Export Price and Normal Value*

The following is a description of the allegation of sales at less than fair value upon which our decision to initiate this investigation is based. Should the need arise to use any of this information in our preliminary or final determinations for purposes of facts available under section 776 of the Act, we may re-examine the information and revise the margin calculations, if appropriate.

The petitioners identified Korea Kumho Petrochemical ("Kumho") and Hyundai Petrochemical Co., Ltd. ("Hyundai") as producers and exporters of NBR to the United States. According to the petitioners, Korean producers sold NBR to unaffiliated imports/distributors in the United States and, therefore, U.S. price is calculated using the export price ("EP") methodology.

For their EP calculation, the petitioners have used multiple offers for sale of the subject merchandise by unaffiliated U.S. importer/distributors to unaffiliated purchasers in the United States between March 1998 and February 1999. In order to approximate the price paid by the U.S. importers/distributors to Korean exporters, the petitioners subtracted the importers/distributors' estimated profit, selling, general, and administrative expenses, and imputed credit expenses. The petitioners also deducted movement charges incurred in bringing the merchandise to the United States.

The Department has made several adjustments to the petitioners' calculation of net U.S. price. First, only two of the several U.S. prices presented by the petitioners are supported by source documentation in the petition. Of these two prices, one is from the anticipated period of investigation ("POI") whereas the other price dates to a period prior to the POI. Therefore Department has recalculated the U.S. price based on the price which pertained to the POI and for which the petitioners have submitted supporting documentation. Second, based on our understanding of the distribution process of the Korean product in the United States, the price paid by the unaffiliated importer/distributor in the United States can be computed by simply deducting the importers/distributors' markup (as reported in the petition) from the price charged by the importers/distributors to their unaffiliated customers. Therefore, we deducted this markup rather than the alleged expenses and profit of the importers/distributors. In addition, we subtracted Korean inland freight, ocean freight, U.S. inland freight, U.S. warehousing expenses, U.S. merchandise processing fees, and U.S. harbor maintenance fees. The resulting amount is the net U.S. export price which we have compared to normal value. See Initiation Checklist.

On June 16, the petitioners submitted to the Department unit import values based on U.S. import statistics for January through March 1999. As an alternative calculation of U.S. price, we have used the import values adjusted for the movement expenses above.

The petitioners have used quoted sales prices in the home market to calculate normal value. They obtained gross unit prices and multiple offers for sale in May and October of 1998 for products which were either identical or similar to those sold to the United States. The petitioners subtracted from the gross unit home market prices the estimated transportation costs to home market customers. They made adjustments for differences in circumstances of sale in the U.S. and home markets (for credit and technical services), and they applied a commission offset (corresponding to their deduction of importers/distributors' expenses and profits in calculating EP). Finally, they deducted estimated home market packing costs and added estimated U.S. (international) packing costs.

The Department has also made several adjustments to the petitioners' calculation of normal value. First, we converted the home market prices to U.S. dollars using exchange rates contemporaneous with the U.S. sales. We then computed an average home market price. Second, we did not include the commission offset computed by the petitioners because, as discussed above, no commission was reflected in the U.S. price. Following the petitioners' methodology, we made the circumstance-of-sale adjustment and adjusted for packing and freight. See Initiation Checklist.

#### *Fair Value Comparison*

Based on the data provided by the petitioners, there is reason to believe that imports of NBR from Korea are being, or are likely to be, sold at less than fair value. Based on the Department's recalculations of export price and normal value, the comparisons yield dumping margins ranging from 83.81 percent to 102.20 percent.

#### *Allegation and Evidence of Material Injury and Causation*

The petition alleges that the U.S. industry producing the domestic like product is being materially injured, and is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value. The petitioners explained that the industry's injured condition is evident in the declining trends in net operating income, net sales volumes, net selling prices, and U.S. production. The allegation of injury and causation are supported by relevant evidence including U.S. Customs import data, lost sales, and pricing information. The Department assessed the allegations and

supporting evidence regarding material injury and causation and determined that these allegations are supported by accurate and adequate evidence and meet the statutory requirements for initiation. See Initiation Checklist.

#### *Initiation of Antidumping Investigation*

Based upon our examination of the petition, we have found that the petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of NBR from Korea are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended, we will make our preliminary determination by November 3, 1999.

#### *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 representatives of the Government of Korea. We will attempt to provide a copy of the public version of the petition to the Korean exporters named in the petition.

#### *International Trade Commission Notification*

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

#### *Preliminary Determination by the ITC*

The ITC will determine by July 12, 1999, whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of NBR from Korea. 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 published in accordance with section 777(i) of the Act.

Dated: June 16, 1999.

**Robert S. LaRussa,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-853]

#### **Initiation of Antidumping Duty Investigation: Bulk Aspirin From the People's Republic of China**

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

**EFFECTIVE DATE:** June 23, 1999.

**FOR FURTHER INFORMATION CONTACT:**

Craig W. Matney or Alysia Wilson, Office 1, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1778 or (202) 482-0108, respectively.

#### **Initiation of Investigation**

##### *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 to 19 CFR part 351 (1998).

##### *The Petition*

On May 28, 1999, the Department received a petition filed in proper form by Rhodia, Inc., referred to hereinafter as "the petitioner." The petitioner filed supplemental information to the petition on June 14, 1999.

In accordance with section 732(b) of the Act, the petitioner alleges that imports of bulk aspirin from the People's Republic of China (PRC) are being, 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 such imports are materially injuring or threaten to 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 section 771(9)(C) of the Act and it represents, at a minimum, the required proportion of the United States industry (see *Determination of Industry Support for the Petition* section below).

##### *Scope of Investigation*

For purposes of this investigation, the product covered is bulk acetylsalicylic acid, commonly referred to as bulk

aspirin, whether or not in pharmaceutical or compound form, not put up in dosage form (tablet, capsule, powders or similar form for direct human consumption). Bulk aspirin may be imported in two forms, as pure ortho-acetylsalicylic acid or as mixed ortho-acetylsalicylic acid. Pure ortho-acetylsalicylic acid can be either in crystal form or granulated into a fine powder (pharmaceutical form). This product has the chemical formula  $C_9H_8O_4$ . It is defined by the official monograph of the United States Pharmacopoeia (USP) 23. It is classified under the *Harmonized Tariff Schedule of the United States* (HTSUS) subheading 2918.22.1000.

Mixed ortho-acetylsalicylic acid consists of ortho-acetylsalicylic acid combined with other inactive substances such as starch, lactose, cellulose, or coloring materials and/or other active substances. The presence of other active substances must be in concentrations less than that specified for particular nonprescription drug combinations of aspirin and active substances as published in the Handbook of Nonprescription Drugs, eighth edition, American Pharmaceutical Association. This product is classified under HTSUS subheading 3003.90.0000. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

During our review of the petition, we discussed the scope with the petitioner to ensure the petition accurately reflects the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations (62 FR 27296, 27323), 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 days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit at 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 our preliminary determination.

##### *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 a petition meets