

## Background

On September 28, 2001, the Department published the *Final Determination*, covering the period of investigation ("POI") April 1, 2000 through September 30, 2000. On November 29, 2001, the antidumping duty order was published. See *Notice of the Antidumping Duty Order: Certain Hot-Rolled Carbon Steel Flat Products From the People's Republic of China*, 66 FR 59561 (November 29, 2001). Anshan Iron & Steel Company, Ltd., New Iron & Steel Company, Ltd., and Angang Group International Trade Corporation (collectively "Anshan"), Benxi Iron & Steel Company, Ltd., Benxi Steel Plate Company, Ltd., and Benxi Iron & Steel Group International Economic and Trade Company Ltd. (collectively "Benxi"), and Shanghai Baosteel Group Corporation, Baosteel America, Inc., and Baosteel Group International Trade Corporation ("Baosteel") (collectively "Respondents") contested various aspects of the *Final Determination*.

On July 16, 2003, the CIT issued its opinion and remanded to the Department two issues in the *Final Determination* for reconsideration: (1) with respect to the Department's decision to assign surrogate values to Respondents' self-produced factors, the CIT ordered the Department to either provide an adequate explanation for its deviation from previous practice, or assign surrogate values to Respondents' inputs into its self-produced factors; and (2) with respect to the Department's decision not to treat defective hot-rolled sheet as a byproduct, the Court ordered the Department to adjust Baosteel's factors-of-production calculations by including defective sheet as merchandise under investigation. See *Anshan Iron & Steel Co. v. United States*, Slip Op. 03-83 (CIT 2003). Pursuant to the CIT's decision, the Department issued its remand. See *Final Results of Redetermination Pursuant to Remand* (November 7, 2003) (available at <http://ia.ita.doc.gov>). On September 22, 2004, the CIT issued its opinion regarding the Department's first remand, affirming in part and remanding in part the Department's results. The CIT ordered the Department: 1) to reopen the record in this case, admit the complete financial statements of the surrogate Indian producer, Tata Iron and Steel Co., Ltd. ("TATA"), and consider that information in its redetermination; and 2) reconsider its factors-of-production analysis by either providing an adequate explanation for its deviation from previous practice, or assigning surrogate values to Respondents' factors of production for

their self-produced intermediate inputs. See *Anshan Iron & Steel Company, Ltd. v. United States*, 358 F. Supp. 2d 1236 (CIT 2004). The Department complied with the CIT's request and reopened the record to admit TATA's complete financial statement. Based on an analysis of this new information, the Department recalculated Respondents' normal value to assign surrogate values to each of the inputs used by Respondents to self-produce electricity, nitrogen, oxygen, and argon. On January 7, 2005, the Department filed its second remand results. See *Final Results of Redetermination Pursuant to Remand* (January 7, 2005) (available at <http://ia.ita.doc.gov>). On March 15, 2005, the CIT sustained the Department's second remand results. See *Anshan Iron & Steel Co. v. United States*, 366 F. Supp. 2d 128 (CIT 2005).

## Amended Final Determination

Because there is now a final and conclusive decision in the court proceeding, we are amending the *Final Determination* to reflect the results of the second remand determination. The recalculated margins are as follows:

| Manufacturer/exporter  | Weighted-average margin (percent)               |
|--|---|
| Angang Group International Trade Corporation, .....<br>New Iron & Steel Co., Ltd.,<br>and Angang Group Hong Kong Co., Ltd.,<br>Benxi Iron & Steel Group International .....<br>Economic & Trade Co., Ltd.,<br>Bengang Steel Plates Co., Ltd.,<br>and Benxi Iron & Steel Group Co., Ltd.,<br>Shanghai Baosteel Group Corporation, .....<br>Baoshan Iron and Steel Co., Ltd.,<br>and Baosteel Group International Trade Corporation. | 31.09<br><br><br><br>57.19<br><br><br><br>12.39 |

## Cash Deposit Requirements

The Department will direct United States Customs and Border Protection to require, on or after the date of publication of this notice in the **Federal Register**, the cash deposit rates listed above for the subject merchandise. These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of an administrative review of this order.

This notice is issued and published in accordance with sections 735(d) and 777(i) of the Tariff Act of 1930, as amended.

Dated: November 8, 2005.

**Stephen J. Claeys,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E5-6373 Filed 11-16-05; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-122-852]

### Initiation of Antidumping Duty Investigation: Liquid Sulfur Dioxide from Canada

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

**EFFECTIVE DATE:** November 17, 2005.

**FOR FURTHER INFORMATION CONTACT:** Kate Johnson or Rebecca Trainor, 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) 482-4929 and (202) 482-4007, respectively.

### SUPPLEMENTARY INFORMATION:

### INITIATION OF INVESTIGATION

#### The Petition

On September 30, 2005, the Department of Commerce (Department) received a petition on imports of liquid sulfur dioxide from Canada filed in proper form by Calabrian Corporation (the petitioner) on behalf of the domestic industry producing liquid sulfur dioxide<sup>1</sup> (*Liquid Sulfur Dioxide from Canada: Antidumping Duty Petition* dated September 30, 2005 (Petition)). The period of investigation (POI) is July 1, 2004, through June 30, 2005.

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioner alleged that imports of liquid sulfur dioxide from Canada 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.

#### Scope of Investigation

The product covered by this investigation is technical or commercial

<sup>1</sup> See Memorandum from the Team to Barbara Tillman, Acting Deputy Assistant Secretary: Decision Memorandum Concerning Filing Date of Petition, October 6, 2005, (explaining that the proper filing date is September 30, 2005, as the petition was filed at the ITC after the noon deadline on September 29).

grade and refrigeration grade liquid sulfur dioxide of a minimum 99.98 percent assay. Sulfur dioxide is identified by the chemical formula SO<sub>2</sub>. The Chemical Abstract Service (CAS) No. for sulfur dioxide is 7446-09-5. Liquid sulfur dioxide is pure sulfur dioxide gas compressed through refrigeration and stored under pressure. Sulfur dioxide in its gaseous state is excluded from the petition.

Liquid sulfur dioxide subject to this investigation is currently classifiable under subheading 2811.23.00 of the Harmonized Tariff Schedule of the United States (HTSUS). While the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

#### Comments on Scope of Investigation

During our review of the petition, we discussed the scope with the petitioner to ensure that it accurately reflects the product for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the Department's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage. See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27295, 27323 (May 19, 1997). The Department encourages all interested parties to submit such comments within 20 calendar days of publication of this initiation notice. Comments should be addressed to Import Administration's Central Records Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230 - Attn: Irene Darzenta Tzafolias. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with interested parties prior to the issuance of the preliminary determination.

#### Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed by or on behalf of the domestic industry. In order to determine whether a petition has been filed by or on behalf of the industry, the Department, pursuant to section 732(c)(4)(A) of the Act, determines whether a minimum percentage of the relevant industry supports the petition. A petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) 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. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using any statistically valid sampling method.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce 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 (section 771(10) of the Act), they do so for different purposes and pursuant to a 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 like product, such differences do not render the decision of either agency contrary to law. See *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 642-44 (CIT 1988); see also *High Information Content Flat Panel Displays and Display Glass Therefor from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380-81 (July 16, 1991).

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 domestic like product analysis 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.

With regard to the domestic like product, the petitioner does not offer a definition of domestic like product distinct from the scope of the investigation. Based on our analysis of the information submitted in the petition, we have determined there is a single domestic like product, liquid

sulfur dioxide, which is defined further in the "Scope of the Investigation" section above, and we have analyzed industry support in terms of that domestic like product. See *Initiation Checklist* at Attachment 1.

Based on information provided in the petition, the share of total estimated U.S. production of the domestic like product in calendar year 2004 represented by the petitioner did not account for more than 50 percent of the total production of the domestic like product. Therefore, in accordance with 732(c)(4)(D) of the Act, we polled the industry. See *Notice of Extension of the Deadline for Determining the Adequacy of the Petition: Liquid Sulfur Dioxide from Canada*, 70 FR 61937 (October 27, 2005).

On October 7, 2005, we issued polling questionnaires to all known domestic producers of liquid sulfur dioxide identified in the petition. On October 12, 2005, we sent a letter to the domestic producers transmitting revised scope language provided by the petitioner on October 11, 2005, as well as a clarification regarding the reporting of liquid sulfur dioxide that was produced and consumed internally. The questionnaires are on file in the Central Records Unit (CRU) in room B-099 of the main Department of Commerce building. We requested that each company complete the polling questionnaire and certify their responses by faxing their responses to the Department by the due date. For a detailed discussion of the responses received, please see the *Initiation Checklist* at Attachment I.

On October 25, 2005, we sent additional questions to Rhodia Inc. (Rhodia) and Chemtrade Logistics (U.S.) Inc. (Chemtrade U.S.), domestic producers expressing opposition to the petition, and received responses on October 31, 2005. Based on the responses received, we determined that Rhodia's opposition should be disregarded in our industry support calculation.

Section 732(c)(4)(B)(i) of the Act states that the Department "shall disregard the position of domestic producers who oppose the petition if such producers are related to foreign producers, as defined in section 771(4)(B)(ii), unless such domestic producers demonstrate that their interests as domestic producers would be adversely affected by the imposition of an antidumping duty order." In addition, section 351.203(e)(4)(i) of the Department's regulations states that the position of a domestic producer that opposes the petition may be disregarded if such producer is related to a foreign

producer or to a foreign exporter under section 771(4)(B)(ii) of the Act, unless such domestic producer demonstrates to the Secretary's satisfaction that its interests as a domestic producer would be adversely affected by the imposition of an antidumping order. Moreover, section 771(4)(B)(ii)(II) contemplates that the Department will consider whether an exporter controls a producer, when determining whether a domestic producer is related to a foreign company for purposes of section 732(c)(4)(B)(i).

In its October 31, 2005, response, Rhodia confirmed that it has a significant relationship with a Canadian exporter of subject merchandise. Specifically, Rhodia, which ceased production of the subject merchandise on December 31, 2004, entered into an asset purchase and sale agreement with Chemtrade Logistics Inc. (Chemtrade Canada) at the end of 2003, whereby it sold all of its domestic manufacturing and sales business to Chemtrade Canada and was obligated not to compete in the liquid sulfur dioxide industry for a period of 5 years. In addition, Rhodia is currently marketing and distributing liquid sulfur dioxide supplied by Chemtrade Canada, and is entitled to a commission on these sales.

In this case, we find that Rhodia and Chemtrade Canada are related, as defined in section 771(4)(B)(ii)(II) of the Act. Section 771(4)(B)(ii)(II) states that a producer and an exporter or importer shall be considered to be related parties if "the exporter or importer directly or indirectly controls the producer." This subparagraph also states that "a party shall be considered to directly or indirectly control another party if the party is legally or operationally in a position to exercise restraint or direction over the other party." Because of the nature of the relationship between Rhodia and Chemtrade Canada, Chemtrade Canada is legally and operationally in a position to restrain or direct Rhodia. For further discussion, see *Initiation Checklist*.

Section 732(c)(4)(B)(i) of the Act also states that the Department will disregard the opposition of related producers "unless such domestic producers demonstrate that their interests as domestic producers would be adversely affected by the imposition of an antidumping duty order." Rhodia has not demonstrated that its interests as a domestic producer would be adversely affected by the imposition of an antidumping order. Furthermore, it is unclear what "interests as a domestic producer" Rhodia has because it no longer produces the domestic like product pursuant to its business

arrangement with Chemtrade Canada. Therefore, we determine that it is appropriate to disregard Rhodia's opposition to the petition under section 732(c)(4)(B)(i) of the Act and section 351.203(e)(4)(i) of the Department's regulations based on the fact that it is related to Chemtrade Canada and failed to demonstrate that its interests as a domestic producer would be adversely affected by the imposition of an antidumping duty order on liquid sulfur dioxide.

Our analysis of the data indicates that the domestic producers of liquid sulfur dioxide who support the petition account for at least 25 percent of the total production of the domestic like product and, once Rhodia's opposition is disregarded, 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. See *Initiation Checklist* at Attachment I. Accordingly, the Department determines that the industry support requirements of section 732(c)(4)(A) of the Act have been met. The petitioner has suggested that we disregard another party who opposed the petition, Chemtrade U.S., because it is related to Chemtrade Canada and is a significant importer of liquid sulfur dioxide from Canada; however, because the petitioner has met the 50 percent threshold, after disregarding Rhodia's opposition, we have determined that we need not address the opposition of Chemtrade U.S.

Therefore, the Department determines that petitioner filed this petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(F) of the Act and it has demonstrated sufficient industry support with respect to the antidumping investigation that it is requesting the Department initiate. See *Initiation Checklist* at Attachment I (Industry Support).

#### U.S. Price and Normal Value

The following is a description of the allegation of sales at less than fair value upon which the Department based its decision to initiate this investigation. The sources of data for the deductions relating to the U.S. and home market prices are also discussed in the *Initiation Checklist*. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determination, we may reexamine the information and revise the margin calculations, if appropriate.

#### Export Price

Pursuant to section 772(a) of the Act, the petitioner based export price on two price quotations from a Canadian producer of liquid sulfur dioxide to U.S. customers. See petition at 18–20 and Attachment 15 and amended petition at 9. The Department deducted from these prices freight expenses and merchandise processing fees of 0.21 percent of dutiable value (net of freight). The freight rates are based on the published 2005 freight tariffs of Canadian Pacific Railway. See proprietary *Initiation Checklist*.

#### Normal Value

To calculate NV, pursuant to section 773(a) of the Act, the petitioner provided a 2003 published price for liquid sulfur dioxide and June 2005 Canadian prices obtained through foreign market research. See petition at 15–18 and Attachments 10–13 and amended petition at 6–9. For purposes of this initiation, we have relied on the market research by the petitioner of Canadian liquid sulfur dioxide prices because these prices are more contemporaneous. In addition, we disregarded two of these prices and recalculated another price based on source documentation in the petition. See proprietary *Initiation Checklist*. The petitioner deducted estimated freight expenses to derive ex-factory prices. The freight rates are based on the published 2005 freight tariffs of Canadian Pacific Railway. See proprietary *Initiation Checklist*.

#### Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of liquid sulfur dioxide from Canada are being, or are likely to be, sold in the United States at less than fair value. Based upon comparisons of export price to the NV, calculated in accordance with section 773(a) of the Act, the estimated dumping margins for liquid sulfur dioxide from Canada, revised as a result of the Department's recalculations, range from 141.14 percent to 219.99 percent.

#### Allegations and Evidence of Material Injury and Causation

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the individual and cumulated imports of the subject merchandise sold at less than NV. The petitioner contends that the industry's injured condition is illustrated by the decline in customer base, market share, domestic shipments, prices and profit. We have assessed the

allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See Initiation Checklists.*

#### Initiation of Antidumping Investigation

Based upon our examination of the petition on liquid sulfur dioxide from Canada, we find that this petition meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of liquid sulfur dioxide from Canada are being, or are likely to be, sold in the United States at less than fair value. Unless postponed, we will make our preliminary determination no later than 140 days after the date of this initiation.

#### 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 the Government of Canada.

#### International Trade Commission Notification

We have notified the International Trade Commission (ITC) of our initiation, as required by section 732(d) of the Act.

#### Preliminary Determination by the ITC

The ITC will preliminarily determine, within 25 days after the date on which it receives notice of this initiation, whether there is a reasonable indication that imports of liquid sulfur dioxide from Canada are causing material injury, or threatening to cause material injury, to a U.S. industry. *See* section 733(a)(2) of the Act. 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 issued and published pursuant to section 777(i) of the Act.

Dated: November 9, 2005.

**Stephen J. Claeys,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E5-6370 Filed 11-16-05; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-583-603]

#### Top-of-the-Stove Stainless Steel Cooking Ware from Taiwan; Revocation of the Antidumping Duty Order

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

**SUMMARY:** Pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act), the International Trade Commission (ITC) determined that revocation of the antidumping duty order on top-of-the-stove stainless steel cooking ware (cooking ware) from Taiwan would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Investigations Nos. 731-TA-298 and 299 (Second Review); Investigations Nos. 701-TA-267 and 268 and 731-TA-304 and 305 (Second Review); Porcelain-on-Steel Cooking Ware From China and Taiwan; Top-of-the-Stove Stainless Steel Cooking Ware From Korea and Taiwan*, 70 FR 67740 (November 8, 2005) (*ITC Determination*). Therefore, pursuant to section 751(d)(2) of the Act and 19 CFR 351.222(i)(1)(iii), the Department of Commerce (the Department) is revoking the antidumping duty order on cooking ware from Taiwan. Pursuant to section 751(c)(6)(A)(iv) of the Act and 19 CFR 351.222(i)(2)(i), the effective date of revocation of the antidumping duty order is April 18, 2005, the fifth anniversary of the date of publication in the **Federal Register** of the determination to continue the order.

**EFFECTIVE DATE:** November 17, 2005.

**FOR FURTHER INFORMATION:** Zev Primor, AD/CVD Operations, Office IV, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4114.

#### SUPPLEMENTARY INFORMATION:

##### Background

On March 1, 2005, the Department and the ITC initiated sunset reviews of the antidumping duty order on cooking ware from Taiwan pursuant to section 751(c) of the Act. *See Initiation of Five-year ("Sunset") Reviews*, 70 FR 9919 (March 1, 2005). As a result of its review, the Department found that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping, and notified

the ITC of the magnitude of the margins likely to prevail were the order revoked. *See Top-of-the-Stove Stainless Steel Cooking Ware from the Republic of Korea and Taiwan; Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 70 FR 56443 (September 27, 2005).

On October 27, 2005, the ITC determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty order on cooking ware from Taiwan would not likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See* USITC Publication 3808 (October 2005) and *ITC Determination*.

#### Scope of the Order

The merchandise subject to this antidumping duty order is cooking ware from Taiwan. The subject merchandise is all non-electric cooking ware of stainless steel which may have one or more layers of aluminum, copper or carbon steel for more even heat distribution. The subject merchandise includes skillets, frying pans, omelette pans, saucepans, double boilers, stock pots, dutch ovens, casseroles, steamers, and other stainless steel vessels, all for cooking on stove top burners, except tea kettles and fish poachers. Excluded from the scope of the orders are stainless steel oven ware and stainless steel kitchen ware. The subject merchandise is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) item numbers 7323.93.00 and 9604.00.00. The HTSUS item numbers are provided for convenience and Customs purposes only. The written description remains dispositive.

#### Determination

As a result of the determination by the ITC that revocation of the antidumping duty order would not be likely to lead to continuation or recurrence of material injury to an industry in the United States, the Department, pursuant to section 751(d)(2) of the Act, is revoking the antidumping duty order on cooking ware from Taiwan. Pursuant to section 751(c)(6)(A)(iv) of the Act and 19 CFR 351.222(i)(2)(i), revocation is effective April 18, 2005, the fifth anniversary of the date of the determination to continue the order. The Department will instruct United States Customs and Border Protection (CBP) to discontinue the suspension of liquidation and collection of cash deposits on entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after April 18, 2005. The Department will instruct CBP to