

case brief, parties are encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the case brief is filed. If a hearing is held, an interested party may make an affirmative presentation only on arguments included in that party's case brief and may make a rebuttal presentation only on arguments included in that party's rebuttal brief. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

The Department will issue the final results of these new shipper reviews, which will include the results of its analysis of issues raised in the briefs, within 90 days from the date of these preliminary results, unless the time limit is extended.

Assessment Rates

Upon completion of these new shipper reviews, the Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisal instructions directly to the U.S. Customs Service upon completion of these reviews. For assessment purposes, we calculated importer-specific assessment rates for freshwater crawfish tail meat from the PRC. We divided the total dumping margins (calculated as the difference between NV and EP) for each importer by the total quantity of subject merchandise sold to that importer during the POR. Upon the completion of these reviews, we will direct Customs to assess the resulting quantity-based rates against the weight in kilograms of each entry of the subject merchandise by the importer during the POR. See memorandum to file dated August 5, 2002, which places on the record of these reviews the "Memorandum to Barbara E. Tillman through Maureen Flannery, from Mark Hoadley: Collection of Cash Deposits and Assessment of Duties on Freshwater Crawfish from the PRC, dated August 27, 2001" on the record of these new shipper reviews.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these review periods. Failure to comply with this requirement could

result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These new shipper reviews and this notice are published in accordance with sections 751(a)(2)(B) and 777 (i)(1) of the Act.

Dated: August 5, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-412-803]

Industrial Nitrocellulose From the United Kingdom: Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

EFFECTIVE DATE: August 12, 2002.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on industrial nitrocellulose (INC) from the United Kingdom (U.K.) in response to a request by Imperial Chemical Industries PLC and its affiliates (ICI). This review covers sales of subject merchandise made by one manufacturer/exporter, ICI, to the United States during the period July 1, 2000, through June 30, 2001.

We have preliminarily determined that sales of subject merchandise have been made below normal value (NV). If these preliminary results are adopted in our final results of administrative review, we will instruct the United States Customs Service (Customs) to assess antidumping duties, as appropriate.

We invite interested parties to comment on these preliminary results. Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument.

FOR FURTHER INFORMATION CONTACT: Howard Smith or Michele Mire, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and

Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-5193 or (202) 482-4711, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR Part 351 (2001).

Background

The Department published in the **Federal Register** the antidumping duty order on INC from the United Kingdom on July 10, 1990 (55 FR 28270). On July 2, 2001, we published in the **Federal Register** (66 FR 34910), a notice of "Opportunity to Request Administrative Review" of this order covering the period July 1, 2000, through June 30, 2001, here after, referred to as the POR.

In accordance with 19 CFR 351.213(b), on July 31, 2001, ICI requested that we conduct an administrative review of its sales and shipments of subject merchandise to the United States for the aforementioned period. The Department is now conducting this administrative review pursuant to section 751 of the Act.

On August 20, 2001, we published in the **Federal Register** a notice of initiation of administrative review (66 FR 43570, 43572). On March 12, 2002, we published in the **Federal Register** a notice of extension of time limit for the preliminary results (66 FR 11095). We issued the antidumping duty and supplemental questionnaires to respondent during the months of September 2001, and January and May 2002.¹ We received ICI's responses to these questionnaires in the months of November 2001, and February and May 2002, respectively.

¹ Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy (NME) cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production (COP) of the foreign like product and the constructed value (CV) of the merchandise under investigation. Section E requests information on further manufacturing.

Scope of Review

Imports covered by this review are shipments of INC from the United Kingdom. INC is a dry, white amorphous synthetic chemical with a nitrogen content between 10.8 and 12.2 percent, and is produced from the reaction of cellulose with nitric acid. INC is used as a film-former in coatings, lacquers, furniture finishes, and printing inks. The scope of this order does not include explosive grade nitrocellulose, which has a nitrogen content of greater than 12.2 percent.

INC is currently classified under Harmonized Tariff Schedule of the United States (HTSUS) item number 3912.20.00. While the HTSUS item number is provided for convenience and Customs purposes, the written description remains dispositive as to the scope of the product coverage.

Product Comparisons

To determine whether sales of INC from the United Kingdom to the United States were made at less than NV, we compared the constructed export price (CEP) to the NV, as described in the *Constructed Export Price* and *Normal Value* sections of this notice. When making product comparisons in accordance with section 771(16) of the Act, we considered all products within the scope of the order that were sold by the respondent in the home market in the ordinary course of trade during the POR to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We compared U.S. sales, on a model-specific basis, to sales made in the home market during the same month. When there were no home market sales of comparable merchandise occurring in the same month as the U.S. sale, we compared U.S. sales to monthly average home market sales one month prior, two months prior, three months prior to the month of the U.S. sale. If unsuccessful, we looked one month after and finally two months after the month of the U.S. sale. Where there were no sales of identical or similar merchandise in the home market within this time to compare to U.S. sales, we compared U.S. sales to the constructed value (CV) of the product sold in the home market during the comparison period.

Constructed Export Price

For the price to the United States, we used CEP, as defined in section 772(b) of the Act, because all sales to the first unaffiliated purchaser in the United States took place after importation. We calculated CEP based on packed, delivered prices to unaffiliated

customers in the United States. In accordance with sections 772(c) and (d) of the Act, we made deductions from the starting price, where appropriate, for rebates, international freight, marine insurance, U.S. brokerage and handling, U.S. inland freight, U.S. duties, and direct and indirect selling expenses to the extent that they were associated with economic activity occurring in the United States. Direct selling expenses include credit expenses and commissions, where applicable. ICI reported that it had no U.S. dollar denominated debt during the POR, and thus it calculated its U.S. credit expenses and inventory carrying costs based on an interest rate published by the British Bankers Association. Consistent with Department policy, we recalculated ICI's reported U.S. imputed credit expenses and inventory carrying costs using the Federal Reserve's weighted-average interest rate for commercial and industrial loans maturing between one month and one year. Finally, we made an adjustment for CEP profit in accordance with sections 772(d)(3) and 772(f) of the Act.

Further Manufacturing

For INC that was imported by a U.S. affiliate of ICI and then further processed into lacquer and sealer products before being sold to unaffiliated parties in the United States, we determined that the special rule for merchandise with value added after importation under section 772(e) of the Act applies. Where appropriate, in accordance with section 772(d)(2) of the Act, the Department calculates the CEP by deducting from U.S. price the cost of any further manufacture or assembly in the United States, except where the special rule provided in section 772(e) of the Act is applied. Section 772(e) of the Act provides that, where the subject merchandise is imported by an affiliated person and the value added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise, we shall determine the CEP for such merchandise using the price of identical or other subject merchandise sold in the United States if there is a sufficient quantity of sales to provide a reasonable basis for comparison. If there is not a sufficient quantity of such sales or if we determine that using the price of identical or other subject merchandise is not appropriate, we may use any other reasonable basis to determine the CEP. To determine whether the value added is likely to exceed substantially the value of the subject merchandise, we estimated the value added, pursuant to section 351.402(c)(2) of the

Department's regulations, based on the difference between the averages of the prices charged to the first unaffiliated purchaser for the merchandise as sold in the United States and the averages of the prices paid for the subject merchandise by the affiliated person. Based on this analysis, we determined that the estimated value added in the United States by ICI's U.S. affiliate accounted for at least 65 percent of the price charged to the first unaffiliated customer for the merchandise as sold in the United States. Therefore, in accordance with 19 CFR 351.402(c)(2), we determined that the value added is likely to exceed substantially the value of the subject merchandise. We also determined that there was a sufficient quantity of sales of other subject merchandise available in the U.S. market to provide a reasonable basis for comparison and that the use of such sales is appropriate in accordance with section 772(e) of the Act. Accordingly, for purposes of determining dumping margins for this sale, we have used the weighted-average dumping margins calculated on sales of subject merchandise sold to unaffiliated persons in the United States. *See* 19 CFR 351.402(c)(3). For a complete discussion of the information used by the Department in making this determination, which is proprietary, *see Memorandum on Whether It Is Appropriate to Use the Special Rule for Certain Further-Manufactured Merchandise Sold by Imperial Chemical Industries PLC (ICI) in the United States During the Period of Review Under Section 772(e) of the Act* dated July 31, 2002, on file in the Central Records Unit (CRU), Room B-099 of the main Department building.

Normal Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the respondent's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. Pursuant to sections 773(a)(1)(B) and (C) of the Act, because ICI's aggregate volume of home market sales of the foreign like product is greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that sales in the home market provide a viable basis for calculating NV.

ICI reported that all home market sales during the POR were to unaffiliated parties. Therefore, we did not conduct the arm's length test. We calculated NV based on packed, delivered prices to unaffiliated

purchasers in the home market. In accordance with section 773(a)(6) of the Act, we adjusted the starting price by deducting home market packing costs and adding U.S. packing costs. Where applicable, we deducted inland freight and inland insurance from the starting price. In addition, we made a circumstance of sale adjustment for direct selling expenses, in accordance with section 773(a)(6)(C)(iii) of the Act. Furthermore, we made adjustments, where appropriate, for physical differences in merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. We based this adjustment on the difference between the variable costs of manufacturing the foreign like product and the subject merchandise.

Finally, we reduced NV by the CEP offset. This offset equals the amount of the indirect selling expenses incurred on sales in the home market limited by the amount of the indirect selling expenses deducted from CEP pursuant to section 772(d) of the Act. *See the Level of Trade* section of this notice.

Cost of Production (COP) Analysis

In the 1999 - 2000 administrative review of INC from the United Kingdom, the most recently completed segment of this proceeding, the Department disregarded ICI's home market sales that were found to have failed the cost test. *See Industrial Nitrocellulose from the United Kingdom: Final Results of Antidumping Duty Administrative Review*, 66 FR 40978 (August 6, 2001). Accordingly, the Department, pursuant to section 773(b)(2)(A)(ii) of the Act, initiated a COP investigation of ICI for purposes of this administrative review. We conducted the COP analysis as described below.

Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated the weighted-average COP, by model, by adding to the cost of materials and fabrication employed in producing the foreign like product, amounts for home market selling, general and administrative (SG&A) expenses and packing costs. We based these costs on the home market sales data and COP information provided by ICI in its questionnaire responses. ICI calculated its reported interest expense ratio using interest expenses incurred by its affiliate, Nobel's Explosives Company, Ltd. (Nobel's). Consistent with Department policy, and as requested in the Department's antidumping duty questionnaire, we recalculated ICI's reported net interest expense ratio based on the interest expenses reported on the

parent's consolidated audited fiscal year financial statements.

1. Test of Home Market Prices

After calculating a weighted-average COP in accordance with section 773(b)(1) of the Act, we tested whether home market sales of INC were made at prices below the COP within an extended period of time in substantial quantities, and whether such prices permitted recovery of all costs within a reasonable period of time. We compared model-specific COP figures to the reported home market sales prices less any applicable movement charges, discounts, direct and indirect selling expenses, and packing costs.

2. Results of COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of ICI's sales of a given model were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." In accordance with section 773(b)(2)(B) and (D) of the Act where 20 percent or more of the home market sales of a given product during the POR were at prices less than the COP, we found that such sales were made in substantial quantities within an extended period of time. In such cases, because we compared prices to POR-average costs, we also determined that the sales prices would not permit recovery of all costs within a reasonable period of time. Therefore, we disregarded those below-cost sales and used the remaining sales to determine NV in accordance with section 773(b)(1) of the Act. For those models of INC for which there were no home market sales available for matching purposes, we compared CEP to CV.

Constructed Value

In accordance with section 773(e)(2)(A) of the Act, we calculated CV by adding to ICI's cost of materials and fabrication employed in producing the subject merchandise, U.S. packing costs, SG&A expenses and profit incurred and realized in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country.

In calculating CV, we used the cost of materials and fabrication, and the SG&A expenses reported in the CV portion of ICI's questionnaire response. In addition, we used the U.S. packing costs reported in the U.S. sales portion of ICI's questionnaire response. For profit, we first calculated the difference between the total home market net sales

value and total home market COP for all home market sales in the ordinary course of trade, and divided the sum of this difference by the total home market COP for these sales. We then multiplied this percentage by the COP for each U.S. model to derive the profit amount.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market (in this case the home market) at the same level of trade (LOT) as the EP or CEP transactions. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive SG&A expenses and profit. When U.S. price is based on CEP transactions, the LOT is the level of the constructed sale from the exporter to the importer.² *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997) (*Carbon Steel Plate*).

To evaluate whether different LOTs exist in the U.S. and home markets, we examine information regarding the chain of distribution between the producer and the customers in both markets, including information on stages in the marketing process, selling functions, classes of customer, and the level of selling expenses incurred for each type of sale. Customer categories such as distributors, retailers, or end-users are commonly used by petitioners and respondents to describe different LOTs, but, without substantiation, they are insufficient to establish that a claimed LOT is valid. An analysis of the chain of distribution and the selling functions substantiates or invalidates the claimed LOTs.

Unless we find that there are different selling functions for sales to the United States and home market, we will not determine that there are different LOTs. Different LOTs necessarily involve differences in selling functions, but differences in selling functions, even substantial ones, are not sufficient alone to establish a difference in LOTs. Differences in LOTs are characterized by purchasers at different marketing stages in the chain of distribution and sellers performing qualitatively or quantitatively different functions in selling to those purchasers. If the home market sale is at a different LOT than the U.S. sale, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and home market sales at the LOT of the U.S. sale, we make a LOT adjustment

under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the differences between the LOTs for NV and CEP affect price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). *See Carbon Steel Plate*, 62 FR at 61732, 61733.

ICI did not claim a LOT adjustment. Nevertheless, we evaluated whether a LOT adjustment was appropriate by examining ICI's distribution system, including selling functions, classes of customers, and selling expenses. In reviewing ICI's home market distribution channels, we found that the same selling functions were performed for all sales of the foreign like product; and thus all home market sales were made at only one LOT. Moreover, ICI made all of its U.S. sales to unaffiliated U.S. customers through its affiliate, ICI Americas, Inc. (ICIA). With respect to U.S. sales, after making deductions to the CEP pursuant to section 772(d) of the Act, we found that the selling activities performed by ICI for all CEP sales to its affiliate were limited to demand forecasting, order processing, arranging transportation, and invoicing. Therefore, we found one LOT in the U.S. market and determined that the selling functions performed for the NV LOT (*i.e.*, sales solicitation, price negotiation, customer visits, advertising, technical support, invoicing, rebate administration and billing adjustment) were different from the U.S. selling functions and constituted a more advanced LOT than the U.S. LOT. We, therefore, evaluated whether we could determine if the difference in these LOTs affected price comparability. The effect on price comparability must be demonstrated by a pattern of consistent price differences between sales at the two relevant LOTs in the home market. Because there is only one home market LOT, we are unable to determine whether there is a pattern of consistent price differences based on home market sales of foreign like product, and, therefore, are unable to quantify a LOT adjustment. Therefore, in accordance with section 773(a)(7)(B) of the Act, we have preliminarily granted ICI a CEP offset. *See Memorandum Re: Industrial Nitrocellulose from the United Kingdom Level of Trade Analysis Imperial Chemical Industries, PLC* dated July 31, 2002, on file in the CRU.

Currency Conversion

For purposes of the preliminary results, we made currency conversions in accordance with section 773A of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York. *See Change in Policy Regarding Currency Conversions*, 61 FR 9434 (March 8, 1996).

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margin exists:

Exporter/Manufacturer	Weighted-Average Margin
Imperial Chemical Industries PLC	3.64 percent

We will disclose the calculations used in our analysis to parties to this proceeding in accordance with 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of the date of publication of this notice. *See* 19 CFR 351.310(c). We will issue a memorandum detailing the dates of a hearing, if any, and deadlines for submission of written comments and rebuttal comments, limited to issues raised in such comments, after verification of ICI. Parties who submit comments are requested to submit with the comments (1) a statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. Further, the Department requests that parties submitting written comments provide the Department with a diskette containing the public version of those comments. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such written comments or at the hearing, within 120 days from the publication of these preliminary results.

Assessment Rate

Pursuant to 19 CFR 351.212(b), the Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated an importer-specific assessment rate by aggregating the dumping margins calculated for all U.S. sales and dividing this amount by the entered value of the same merchandise. Upon completion of this review, where the importer-specific assessment rate is

above *de minimis*, the Department will instruct Customs to assess antidumping duties on all entries of subject merchandise by that importer during the POR.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the case deposit rate for the reviewed company will be that established in the final results of this review, except if the rate is less than 0.50 percent, and therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent final results for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 11.13 percent, the "all-others" rate established in the LTFV investigation (55 FR 21058, May 22, 1990).

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 31, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

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