

## Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department of Commerce (the Department) to make a preliminary determination within 245 days after the last day of the anniversary month of an order or finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the 245-day time limit for the preliminary determination to a maximum of 365 days and the time limit for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

## Background

On March 25, 2003, the Department published a notice of initiation of administrative review of the antidumping duty order on heavy forged hand tools, finished or unfinished, with or without handles from the People's Republic of China, covering the period February 1, 2002 through January 31, 2003. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 68 FR 14394. The preliminary results are currently due no later than October 31, 2003.

## Extension of Time Limit for Preliminary Results of Review

We determine that it is not practicable to complete the preliminary results of this review within the original time limit because of the time needed to consider certain factual issues in the case. This extension results in the due date for the preliminary results falling on February 28, 2004, which is a Saturday. Therefore, the preliminary results will be due on the next business day, which is March 1, 2004. *See Decision Memorandum from Thomas F. Futtner, Acting Office Director, to Holly A. Kuga, Acting Deputy Assistant Secretary, dated concurrently with this notice, which is on file in the Central Records Unit, Room B-099 of the Department's main building. We intend to issue the final results no later than 120 days after the publication of the preliminary results notice.*

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: October 9, 2003.

**Holly A. Kuga,**

*Acting Deputy Assistant Secretary for Import Administration, Group II.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-412-803]

### Notice of Preliminary Results of Antidumping Duty Changed Circumstances Review: Industrial Nitrocellulose from the United Kingdom

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

**ACTION:** Notice of Preliminary Results of Antidumping Duty Changed Circumstances Review.

**SUMMARY:** On May 8, 2003, the Department of Commerce (the Department) initiated a changed circumstances review of the antidumping duty order on industrial nitrocellulose (INC) from the United Kingdom in order to determine whether Troon Investments Limited (TIL) is the successor-in-interest to Imperial Chemical Industries, PLC (ICI). *See Notice of Initiation of Antidumping Duty Changed Circumstances Review: Industrial Nitrocellulose from the United Kingdom*, 68 FR 27015 (May 19, 2003). TIL purchased Nobel's Explosives Company, Ltd.'s (NEC) INC business. NEC is a wholly-owned subsidiary of ICI. We preliminarily determine that TIL is the successor-in-interest to ICI for purposes of determining antidumping duty liability. Interested parties are invited to comment on these preliminary results.

**EFFECTIVE DATE:** October 16, 2003.

**FOR FURTHER INFORMATION CONTACT:** Michele Mire or Howard Smith, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-4711 and (202) 482-5193, respectively.

## SUPPLEMENTARY INFORMATION:

### Background

On July 10, 1990, the Department published in the **Federal Register** (55 FR 28270) the antidumping duty order on INC from the United Kingdom. On March 28, 2003, TIL requested that the Department conduct a changed

circumstances review of the antidumping duty order on INC from the United Kingdom claiming that it is the successor-in-interest to ICI, and, as such, it is entitled to receive the same antidumping treatment accorded to ICI. On April 11, 2003, Green Tree Chemical Technologies, Inc., the sole U.S. producer of INC and the petitioner in this proceeding, notified the Department that it opposes TIL's request to be considered the successor-in-interest to ICI. On July 18, 2003, and August 14, 2003, at the request of the Department, TIL submitted additional information and documentation pertaining to its changed circumstances request.

### 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 3912.20.0000. While the HTSUS classification is provided for convenience and customs purposes, the written description remains dispositive as to the scope of the product coverage.

### Preliminary Results of Changed Circumstances Review

In making a successor-in-interest determination, the Department examines several factors including, but not limited to, changes in: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See Brass Sheet and Strip from Canada: Final Results of Antidumping Duty Administrative Review*, 57 FR 20460, 20462 (May 13, 1992) (*Canadian Brass*). While no one single factor, or combination of factors, will necessarily prove to be dispositive, the Department will generally consider a new company to be the successor-in-interest to its predecessor company if its resulting operations are essentially the same as those of its predecessor. *See, e.g., Canadian Brass* at 20460, and *Final Results of Changed Circumstances Antidumping Duty Administrative Review: Industrial Nitrocellulose From Korea*, 65 FR 2115, 2116 (January 13, 2000). Therefore, if there is evidence demonstrating that, with respect to the production and sale of subject

merchandise, a new company essentially operates as the same business entity as the former company, the Department will assign the new company the cash deposit rate of its predecessor.

In its March 28, 2003, request for a changed circumstances review, TIL advised the Department that, on December 31, 2002, it purchased NEC's (a wholly owned subsidiary of ICI) INC and energetic technologies businesses. TIL notes that the energetic technologies business is unrelated to INC. NEC was the sole producer of INC in the United Kingdom, and therefore, the only respondent in prior administrative reviews. TIL was formed to acquire NEC's INC and energetic technologies businesses.

According to TIL, the transfer of ownership of the INC business resulted in no material changes in the management, production facilities, suppliers of raw materials, or customers of NEC's former INC business. While the managing director of NEC's INC business has been replaced, TIL states that all of the other management personnel of the former entity are now employed by TIL. See TIL's March 28, 2003 submission to the Department at 5. Also, TIL notes that it operates the factory formerly operated by NEC using the same equipment and production process used by NEC. Furthermore, TIL reports that it uses the suppliers of raw materials used by NEC (and currently plans no changes to those suppliers) and sells to the former customers of NEC, in the United States and the United Kingdom, on the same basis as NEC sold to these customers. See TIL's July 18, 2003 questionnaire response at 4-5. TIL notes that there have been no changes in the customer base since the acquisition and none are currently anticipated. See TIL's March 28, 2003 submission to the Department at 7. Moreover, TIL points out that since the acquisition, there have been no changes in INC sales personnel, no material changes in the marketing of INC in the United States and the United Kingdom, and no systemic modifications in INC selling prices in either the U.S. or U.K. market. See *id.*

In its April 11, 2003, submission, the petitioner contends that the change in ownership of the INC business has resulted in a change in the business' cost of capital (which affects the Department's interest expense calculation), management, and sales distribution channels. Specifically, the petitioner points out that, recently, in addressing whether NEC's cost of production should include its interest expenses or those of its parent, the

Department found that NEC's parent, ICI, "determined the capital structure of its group companies involved in the production of the subject merchandise." See *Industrial Nitrocellulose From the United Kingdom; Final Results of Antidumping Duty Administrative Review*, 67 FR 77747 (December 19, 2002) and accompanying Issues and Decision Memorandum. Thus, the petitioner concludes that the cost of capital for the new entity will differ from that of its predecessor. In addition to different capital costs, the petitioner points out that, under TIL, the managing director of the INC business is not the managing director formerly employed by NEC. The petitioner finds this significant because it is the managing director who has decision-making authority. Further, the petitioner states that with new ownership and senior management, there can be no assurance that pricing will have the same objectives or follow the same pattern as when NEC was owned by ICI. Finally, the petitioner claims that the sales structure changed after TIL acquired the INC business. Specifically, the petitioner notes that NEC's U.S. affiliate, ICI Americas, Inc., carried out many sales functions for NEC. Based on the foregoing, the petitioner contends that TIL should not be allowed to take advantage of ICI's current cash deposit rate.

As noted above, in determining whether a new company's operations are essentially the same as those of its predecessor, the Department examines whether there have been changes in management, production facilities, supplier relationships, or the customer base. Our review of the record indicates that the change in ownership of the INC business has not resulted in changes to the production facilities or production processes used to manufacture INC, nor has it resulted in material changes in supplier relationships or customer base. Although TIL replaced the managing director of the INC business, there is no indication that this action resulted in significant changes to the INC operations. Furthermore, while the petitioner expressed concern over a possible difference between the cost of capital for the new entity and its predecessor, the record indicates that many of the significant factors that affect costs, with the possible exception of those that affect capital costs, have not changed (e.g., no changes in production process, suppliers of raw materials, and management and sales personnel). Finally, even though there has been a change in the legal entity performing U.S. selling functions (i.e.,

ICI Americas Inc. has ceased performing selling functions), with respect to U.S. sales of INC, the record indicates that there have been no significant changes in the order process, movement of INC from the United Kingdom, customer base, or sales terms, and no systematic price changes. See TIL's July 18, 2003 submission at 6. Thus, the record shows that TIL's operations are essentially the same as those of its predecessor. Therefore, we preliminarily determine that TIL is the successor-in-interest to ICI and should receive the same antidumping duty cash deposit rate as ICI, i.e., 3.06 percent. As a result, if these preliminary results are adopted in our final results of this changed circumstances review, we will instruct the U.S. Bureau of Customs and Border Protection to suspend shipments of subject merchandise made by TIL at ICI's cash deposit rate (i.e., 3.06 percent). Until that time, the cash deposit rate assigned to TIL's entries is the rate in effect at the time of entry (i.e., the "all others" rate).

#### Public Comment

Any interested party may request a hearing within 30 days of publication of this notice. See 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication of this notice, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of this notice. See 19 CFR 351.309(c)(ii). Rebuttal briefs and rebuttals to written comments, which must be limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication of this notice. See 19 CFR 351.309(d). Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities.

Consistent with 19 CFR 351.216(e), we will issue the final results of this changed circumstances review no later than 270 days after the date on which this review was initiated. We are issuing and publishing this determination and notice in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216.

Dated: October 9, 2003.

Jeffrey May,

Acting Assistant Secretary for Import Administration.

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