

Dated: October 13, 2009.

Elizabeth Whiteman

Acting Executive Secretary.

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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-962

Certain Sodium and Potassium Phosphate Salts From the People's Republic of China: Initiation of Antidumping Duty Investigation

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

EFFECTIVE DATE: October 21, 2009.

FOR FURTHER INFORMATION CONTACT: Katie Marksberry at (202) 482-7906, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petition

On September 24, 2009, the Department of Commerce ("Department") received a petition concerning imports of certain sodium and potassium phosphate salts ("certain phosphate salts") from the People's Republic of China ("PRC") filed in proper form by ICL Performance Products LP ("ICL") and Prayon, Inc. (collectively, "Petitioners"). See Petition for the Imposition of Antidumping and Countervailing Duties on Imports of Certain Sodium and Potassium Phosphate Salts from the People's Republic of China, dated September 24, 2009 ("Petition"). On September 30, 2009, the Department issued an additional request for information and clarification of certain areas of the Petition. Based on the Department's requests, Petitioners timely filed additional general information pertaining to the Petition on October 5, 2009, and additional information pertaining to the antidumping portion of the Petition on October 6, 2009 (hereinafter, "Supplement to the AD Petition"). The period of investigation ("POI") is January 1, 2009, through June 30, 2009.

In accordance with section 732(b) of the Tariff Act of 1930, as amended ("Act"), Petitioners allege that imports of certain phosphate salts from the 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 threatening material injury to, an industry in the United States.

The Department finds that Petitioners filed the Petition on behalf of the domestic industry because Petitioners are an interested party, as defined in section 771(9)(C) of the Act, and have demonstrated sufficient industry support with respect to the antidumping duty investigation that Petitioners are requesting the Department to initiate (see "Determination of Industry Support for the Petition" section below).

Scope of Investigation

The products covered by this investigation are certain phosphate salts from the PRC. For a full description of the scope of the investigation, please see the "Scope of Investigation," in Appendix I of this notice.

Comments on Scope of Investigation

As discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by November 3, 2009.¹ Comments should be addressed to Import Administration's APO/Dockets Unit, 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 to consult with parties prior to the issuance of the preliminary determination.

Comments on Product Characteristics for Antidumping Duty Questionnaires

We are requesting comments from interested parties regarding the appropriate physical characteristics of certain phosphate salts to be reported in response to the Department's antidumping questionnaires. This information will be used to identify the key physical characteristics of the merchandise under consideration in order to more accurately report the relevant factors and costs of production, as well as to develop appropriate product comparison criteria.

Interested parties may provide information or comments that they believe are relevant to the development of an accurate listing of physical characteristics. Specifically, they may

provide comments as to which characteristics are appropriate to use as: 1) general product characteristics; and 2) the product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful differences among products. In other words, while there may be some physical product characteristics utilized by manufacturers to describe certain phosphate salts, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the antidumping duty questionnaires, we must receive comments at the above-referenced address by November 3, 2009. Additionally, rebuttal comments must be received by November 10, 2009.

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: (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 a statistically valid sampling method.

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 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 U.S. International Trade Commission ("ITC"), which is responsible for determining whether "the domestic

¹ November 3, 2009, is twenty calendar days from the signature date of this notice.

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 USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001), *citing Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff'd* 865 F.2d 240 (Fed. Cir. 1989), *cert. denied* 492 U.S. 919 (1989).

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 subtitle." Although the reference point from which the domestic like product analysis begins is usually "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), Petitioners presented one class or kind of merchandise, but four domestic like products.

The four like products, when considered together, correspond to the product scope description. Based on our analysis of the information submitted on the record, we have determined that certain phosphate salts (sodium tripolyphosphate ("STPP"), monopotassium phosphate ("MKP"), dipotassium phosphate ("DKP"), and tetrapotassium phosphate ("TKPP")) constitute four domestic like products and we have analyzed industry support in terms of those domestic like products. For a discussion of the domestic like product analysis in this case, see "Antidumping Duty Investigation Initiation Checklist: Certain Sodium and Potassium Phosphate Salts from the People's Republic of China" ("Initiation Checklist"), at Attachment II, Analysis of Industry Support for the Petitions Covering Certain Sodium and Potassium Phosphate Salts from the People's Republic of China, on file in the Central Records Unit ("CRU"), Room 1117 of the main Department of Commerce building.

With regard to section 732(c)(4)(A) of the Act, in determining whether Petitioners have standing (*i.e.*, the

domestic workers and producers supporting 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), we considered the industry support data contained in the Petition with reference to the domestic like products. To establish industry support, Petitioners provided their own production volume of the domestic like products for calendar year 2008, and compared that to total production volume of the domestic like products for the industry. We have relied upon data Petitioners provided for purposes of measuring industry support. For further discussion, *see* Initiation Checklist at Attachment II.

The Department's review of the data provided in the Petition, supplemental submissions, and other information readily available to the Department indicates that Petitioners have established industry support for each of the four like products. First, the Petition establishes support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like products and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling). *See* section 732(c)(4)(D) of the Act, *see also* Initiation Checklist at Attachment II. Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petition account for at least 25 percent of the total production of the relevant domestic like product. *See* Initiation Checklist at Attachment II. Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petition account for more than 50 percent of the production of the relevant domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petition. Accordingly, the Department determines that the Petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. *See* Initiation Checklist at Attachment II.

The Department finds that Petitioners filed the Petition on behalf of the domestic industry because they are interested parties as defined in sections 771(9)(C) of the Act and have demonstrated sufficient industry

support with respect to the antidumping investigation that they are requesting the Department initiate. *See* Initiation Checklist at Attachment II.

Allegations and Evidence of Material Injury and Causation

Petitioners allege that the U.S. industries producing the domestic like products are being materially injured, or are threatened with material injury, by reason of the imports of the subject merchandise sold at less than NV. Petitioners contend that the industries' injured condition is illustrated by reduced market share, underselling and price depressing and suppressing effects, lost sales and revenue, reduced production, reduced capacity and capacity utilization, reduced shipments, reduced employment, and an overall decline in financial performance. We have assessed the allegations and supporting evidence regarding material injury, threat of 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 Checklist at Attachment III (Analysis of Injury Allegations and Evidence of Material Injury and Causation).

Allegations of Sales at Less Than Fair 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 of imports of certain phosphate salts from the PRC. The sources of data for the deductions and adjustments relating to the U.S. price and the factors of production are also discussed in the initiation checklist. *See* Initiation Checklist.

U.S. Price

Petitioners calculated export price ("EP") based on documentation of actual sales and offers for sale obtained from confidential sources. *See* Initiation Checklist; *see also* Volume I of the Petition, at 26, and Supplement to the AD Petition at Exhibit 36. Petitioners made adjustments for distributor mark-ups and cost, insurance and freight ("CIF") charges. *See* Initiation Checklist; *see also* Volume I of the Petition, at 26. Petitioners also relied on Census Bureau statistics for U.S. price. *See* Volume I of the Petition, at 45. We did not rely on one of the provided U.S. prices because, according to the supporting affidavit, it was based on an estimated, not actual, price from a rejected sales offer. *See* Initiation Checklist; *see also* Supplement to the AD Petition at Exhibit AD-39.

Normal Value

Petitioners state that the PRC is a non-market economy ("NME") country and no determination to the contrary has been made by the Department. See Volume I of the Petition, at 27. In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Accordingly, the normal value ("NV") of the product for the PRC investigation is appropriately based on factors of production valued in a surrogate market-economy country in accordance with section 773(c) of the Act. In the course of the PRC investigation, all parties, including the public, will have the opportunity to provide relevant information related to the issue of the PRC's NME status and the granting of separate rates to individual exporters.

Petitioners contend that India is the appropriate surrogate country for the PRC because: 1) it is at a level of economic development comparable to that of the PRC; 2) it is a significant producer of comparable merchandise; and 3) information required to calculate unit factor costs and financial ratios is readily available. See Volume I of the Petition, at 27–30, and Volume 3 of the Petition at Exhibit AD–5. Based on the information provided by Petitioners, we believe that it is appropriate to use India as a surrogate country for initiation purposes. After initiation of the investigation, interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value factors of production within 40 days after the date of publication of the preliminary determination.

Petitioners calculated the NV and dumping margins using the Department's NME methodology as required by 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. Petitioners calculated separate NV and dumping margins for integrated and non-integrated producers in order to reflect the different production processes used. Petitioners based the calculations on the experience of ICL and its predecessor, Astaris, with a few exceptions based on recent articles concerning the PRC phosphorus industry. See Volume 1 of the Petition, at 30–31, Volume 3 of the Petition, at Exhibits AD 10 and AD–11, and Supplement to the AD Petition at

13, and Exhibit AD–35. In calculating NV, Petitioners based the quantity of each of the inputs used to manufacture certain phosphate salts in the PRC on its own industry knowledge and production experience during and before the POI, with some supplemental information obtained from *China Chemical Reporter*. See Supplement to the AD Petition at 13–14, and Exhibit AD–35. Petitioner states that the constructed NV for each PRC producer may be different, depending on the level of integration. See Volume 1 of the Petition, at 31.

Petitioner determined the consumption quantities of all raw materials and packing materials based on the production experience of ICL, Astaris, and *China Chemical Reporter*. See Supplement to the AD Petition at Exhibit AD–35. Petitioners valued the factors of production based on reasonably available, public surrogate country data, specifically, Indian import statistics from the World Trade Atlas ("WTA"). See Volume 3 of the Petition, at Exhibit AD–16. Petitioners excluded from these import statistics imports from countries previously determined by the Department to be NME countries and from Indonesia, the Republic of Korea, and Thailand as the Department has previously excluded prices from these countries because they maintain broadly available, non-industry-specific export subsidies. See *id.* In addition, the Petitioners made currency conversions, where necessary, based on the POI-average rupee/U.S. dollar exchange rate, as reported on the Department's website. See Supplement to the AD Petition at 4–5, and Exhibit AD–26. Petitioners determined labor costs for STPP, TKPP, DKP and MKP using the labor consumption, in hours, derived from its ICL's experience in 2008. See Supplement to the AD Petition Exhibit, at AD–35. Petitioners valued direct labor costs using the Department's NME Wage Rate for the PRC at <http://ia.ita.doc.gov/wages/05wages/05wages-051608.html>. See Volume 1 of the Petition, at 41. The Department determines that the surrogate values used by Petitioners are reasonably available and, thus, acceptable for purposes of initiation.

Petitioners determined electricity costs for STPP, TKPP, DKP and MKP using the electricity consumption, in kilowatt hours, derived from ICL's experience in 2008. See Supplement to the AD Petition, at Exhibit at AD–35. Petitioners valued electricity using the Indian electricity rate reported by the Central Electric Authority of the Government of India. See Volume 1 of

the Petition, at 40 and Volume 3 of the Petition, at Exhibit AD–15.

Petitioners determined natural gas costs for STPP, TKPP, DKP and MKP using the natural gas consumption derived from ICL's experience in 2008. See Supplement to the AD Petition Exhibit at AD–35. Petitioners valued natural gas using Indian import statistics from WTA. See Volume 3 of the Petition, at Exhibit AD–15.

Petitioners based factory overhead, selling, general and administrative ("SG&A"), and profit on data from Tata Chemicals, the largest Indian producer of phosphate salts, for the fiscal year April 2008 through March 2009. See Volume 3 of the Petition, at Exhibit AD–19. Petitioners state that Tata Chemicals is a producer of phosphate salts that is back-integrated to the production of phosphoric acid and that it produces more than one phosphate salt and various related upstream materials. See Volume 1 of the Petition, at 42–44. Petitioners were unable to identify a fully integrated producer of phosphate salts in India and anticipate that an adjustment may be necessary to account for differing levels of integration. However, Petitioners state that Tata Chemical provides the best information available to reasonably represent the cost structure of an integrated phosphate salt producer in the PRC. See *id.* Therefore, for purposes of the initiation, the Department finds Petitioners' use of Tata Chemical's unconsolidated financial ratios appropriate.

Fair-Value Comparisons

Based on the data provided by Petitioners, there is reason to believe that imports of certain phosphate salts from the PRC are being, or are likely to be, sold in the United States at less than fair value. Based on a comparison of U.S. prices and NV calculated in accordance with section 773(c) of the Act, the estimated dumping margins for certain phosphate salts from the PRC range from 33.7 percent to 177.4 percent. See Initiation Checklist.

Initiation of Antidumping Investigation

Based upon the examination of the Petition on certain phosphate salts from the PRC, the Department finds 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 certain phosphate salts from the PRC are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will

make our preliminary determinations no later than 140 days after the date of this initiation.

Targeted-Dumping Allegations

On December 10, 2008, the Department issued an interim final rule for the purpose of withdrawing 19 CFR 351.414(f) and (g), the regulatory provisions governing the targeted-dumping analysis in antidumping duty investigations, and the corresponding regulation governing the deadline for targeted-dumping allegations, 19 CFR 351.301(d)(5). *See Withdrawal of the Regulatory Provisions Governing Targeted Dumping in Antidumping Duty Investigations*, 73 FR 74930 (December 10, 2008). The Department stated that “{w}ithdrawal will allow the Department to exercise the discretion intended by the statute and, thereby, develop a practice that will allow interested parties to pursue all statutory avenues of relief in this area.” *See id.* at 74931.

In order to accomplish this objective, if any interested party wishes to make a targeted-dumping allegation in this investigation pursuant to section 777A(d)(1)(B) of the Act, such allegations are due no later than 45 days before the scheduled date of the preliminary determination.

Respondent Selection

For this investigation, the Department will request quantity and value information from all known exporters and producers identified with complete contact information in the Petition, *see* Petition at Exhibit GEN-12. The quantity and value data received from NME exporters/producers will be used as the basis to select the mandatory respondents.

The Department requires that the respondents submit a response to both the quantity and value questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. *See Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Initiation of Antidumping Duty Investigation*, 73 FR 10221, 10225 (February 26, 2008); *Initiation of Antidumping Duty Investigation: Certain Artist Canvas From the People's Republic of China*, 70 FR 21996, 21999 (April 28, 2005). The Department will post the quantity and value questionnaire along with the filing instructions on the Import Administration website at <http://ia.ita.doc.gov/ia-highlights-and-news.html>, and a response to the quantity and value questionnaire is due no later than November 4, 2009.

Separate Rates

In order to obtain separate-rate status in NME investigations, exporters and producers must submit a separate-rate status application. *See* our practice, described in Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries, dated April 5, 2005 (“Separate Rates and Combination Rates Bulletin”), available on the Department’s website at <http://ia.ita.doc.gov/policy/bull05-1.pdf>. Based on our experience in processing the separate-rate applications in previous antidumping duty investigations, we have modified the application for this investigation to make it more administrable and easier for applicants to complete. *See, e.g., Initiation of Antidumping Duty Investigation: Certain New Pneumatic Off-the-Road Tires From the People's Republic of China*, 72 FR 43591, 43594–95 (August 6, 2007). The specific requirements for submitting the separate-rate application in this investigation are outlined in detail in the application itself, which will be available on the Department’s website at <http://ia.ita.doc.gov/ia-highlights-and-news.html> on the date of publication of this initiation notice in the **Federal Register**. The separate-rate application will be due 60 days after publication of this initiation notice. For exporters and producers who submit a separate-rate status application and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for consideration for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents. As noted in the “Respondent Selection” section above, the Department requires that respondents submit a response to both the quantity and value questionnaire and the separate rate application by the respective deadlines in order to receive consideration for separate-rate status.

Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of

investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of “combination rates” because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.

See Separate Rates and Combination Rates Bulletin at 6 (emphasis added).

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public versions of the Petition have been provided to the representatives of the Government of the PRC. Because of the large number of producers/exporters identified in the Petition, the Department considers the service of the public version of the Petition to the foreign producers/exporters satisfied by the delivery of the public version to the Government of the PRC, consistent with 19 CFR 351.203(c)(2).

ITC Notification

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

Preliminary Determinations by the ITC

The ITC will preliminarily determine, no later than November 9, 2009, whether there is a reasonable indication that imports of certain phosphate salts from the PRC are materially injuring, or threatening material injury to a U.S. industry. 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: October 14, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

Appendix I

Scope of the Investigation

The phosphate salts covered by this investigation include Sodium Tripolyphosphate (STPP), whether anhydrous or in solution, anhydrous Monopotassium Phosphate (MKP), anhydrous Dipotassium Phosphate (DKP) and Tetrapotassium Pyrophosphate (TKPP), whether anhydrous or in solution (collectively "phosphate salts"). STPP, also known as Sodium triphosphate, Tripoly or Pentasodium triphosphate, is a sodium polyphosphate with the formula $\text{Na}_5\text{O}_{10}\text{P}_3$. The American Chemical Society, Chemical Abstract Service ("CAS") registry number for STPP is 7758-29-4. STPP is typically 25% phosphorus, 31% sodium and 57% diphosphorus pentoxide (P_2O_5). STPP is classified under heading 2835.31.0000, HTSUS. TKPP, also known as normal potassium pyrophosphate, Diphosphoric acid or Tetrapotassium salt, is a potassium salt with the formula $\text{K}_4\text{P}_2\text{O}_7$. The CAS registry number for TKPP is 7320-34-5. TKPP is typically 18.7% phosphorus and 47.3% potassium. It is generally greater than or equal to 43.0% P_2O_5 content. TKPP is classified under heading 2835.39.1000, HTSUS. MKP, also known as Potassium dihydrogen phosphate, KDP, or Monobasic potassium phosphate, is a potassium salt with the formula KH_2PO_4 . The CAS registry number for MKP is 7778-77-0. MKP is typically 22.7% phosphorus, 28.7% potassium and 52% P_2O_5 . MKP is classified under heading 2835.24.0000, HTSUS. DKP, also known as Dipotassium salt, Dipotassium hydrogen orthophosphate or Potassium phosphate, dibasic, has a chemical formula of K_2HPO_4 . The CAS registry number for DKP is 7758-11-4. DKP is typically 17.8% phosphorus, 44.8% potassium and 40% P_2O_5 content. DKP is classified under heading 2835.24.0000, HTSUS. The products covered by this investigation include the foregoing phosphate salts in all grades, whether food grade or technical grade. The product covered by this investigation includes anhydrous MKP and DKP without regard to the physical form, whether crushed, granule, powder or fines. Also covered are all forms of STPP and TKPP, whether crushed, granule, powder, fines or solution. For purposes of the investigation, the narrative description is dispositive, not

the tariff heading, American Chemical Society, CAS registry number or CAS name, or the specific percentage chemical composition identified above. [FR Doc. E9-25340 Filed 10-20-09; 8:45 am]

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DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. [PTO-P-2009-0039]]

Request for Comments and Notice of Roundtable on Work Sharing for Patent Applications

AGENCY: United States Patent and Trademark Office, Department of Commerce.

ACTION: Notice of public meeting; request for comments.

SUMMARY: In an effort to avoid duplication of work and to expedite the patent examination process, the United States Patent and Trademark Office (USPTO) has been developing work-sharing initiatives in which an office uses, to the maximum extent practicable, the work already done by another office. The USPTO is conducting a roundtable to obtain input from diverse sources in the patent community and/or the public sector to evaluate views on work sharing. The roundtable is open to the public. The USPTO plans to invite a number of roundtable participants from patent user groups, practitioners, industry, independent inventor organizations, academia, and Government. To ensure that the USPTO is receiving a balanced array of views on work sharing, the USPTO also plans to have a few "at-large" participants based upon requests received in response to this notice. To ensure that all who are speaking will have a meaningful chance to do so, the number of participants in the roundtable is limited. Those who wish to participate in the roundtable must do so by written request. Members of the public who wish solely to attend and observe the roundtable need not submit a request.

In addition, any member of the public may submit written comments on issues raised at the roundtable or on any issue pertaining to work sharing.

Dates and Times: The public meeting will be held on Wednesday, November 18, 2009, from 8:30 a.m. to 1 p.m. The deadline for receipt of requests to participate in the roundtable is 5 p.m. on Wednesday, November 4, 2009.

The deadline for receipt of written comments for consideration by the

USPTO on issues raised at the roundtable or on any issue pertaining to work sharing is December 11, 2009.

ADDRESSES: The roundtable will be held at the USPTO, Madison Auditorium, Concourse Level, Madison Building, 600 Dulany Street, Alexandria, Virginia 22314.

Requests to participate at the roundtable are required and must be submitted by electronic mail message through the Internet to elizabeth.shaw2@uspto.gov. Requests to participate at the roundtable should indicate the following information: (1) The name of the person desiring to participate and the person's contact information (telephone number and electronic mail address); and (2) the organization(s) the person represents, if any.

Written comments should be sent by electronic mail message over the Internet addressed to IP.Policy@uspto.gov. Comments may also be submitted by mail addressed to: Mail Stop OIPPE, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, ATTN: Elizabeth Shaw. Although comments may be submitted by mail, the USPTO prefers to receive comments via the Internet.

The written comments will be available for public inspection by appointment only at the Office of Intellectual Property Policy and Enforcement in the Executive Library located in Madison West, Tenth Floor, 600 Dulany Street, Alexandria, Virginia 22314. Contact: Elizabeth Shaw at elizabeth.shaw2@uspto.gov or 571-272-8494.

Because comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included in the comments.

FOR FURTHER INFORMATION CONTACT:

Elizabeth Shaw, Office of Intellectual Property Policy and Enforcement, by phone 571-272-8494, by facsimile to 571-273-0121, by e-mail at elizabeth.shaw2@uspto.gov or by mail addressed to: Mail Stop OIPPE, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450, ATTN: Elizabeth Shaw.

SUPPLEMENTARY INFORMATION: Inventors and companies are increasingly seeking intellectual property protection for their inventions domestically and in multiple international markets. Because of the fractured nature of the global patent system, applicants must file different applications for their inventions in each country leading to multiple searches