

clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders. See also the Import Administration Web site at <http://www.ia.ita.doc.gov>.

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(1)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of "Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation" for requests received by the last day of July 2003. If the Department does not receive, by the last day of July 2003, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: June 26, 2003.

**Holly A. Kuga,**

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

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-533-836]

#### Notice of Initiation of Antidumping Duty Investigation: Certain Colored Synthetic Organic Oleoresinous Pigment Dispersions from India

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

**ACTION:** Initiation of Antidumping Duty Investigation.

**EFFECTIVE DATE:** July 2, 2003.

**FOR FURTHER INFORMATION CONTACT:** Katherine Johnson at (202) 482-4929 or Rebecca Trainor at (202) 482-4007, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

#### Initiation of Investigation

##### *The Petition*

On June 5, 2003, the Department of Commerce ("the Department") received a petition filed in proper form by Apollo Colors Inc., General Press Colors, Ltd., Magruder Color Company, Inc., and Sun Chemical Corporation (collectively, "the petitioners"). The Department received petition supplements on June 16, 18 and 20, 2003.

In accordance with section 732(b)(1) of the Tariff Act of 1930 ("the Act"), as amended, the petitioners allege that imports of certain colored synthetic organic oleoresinous pigment dispersions ("colored pigment dispersions") from India 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 imports from India are materially injuring, or are threatening to materially injure, an industry in the United States.

The Department finds that the petitioners filed this petition on behalf of the domestic industry because they are interested parties as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the antidumping investigation that they are requesting the Department to initiate. See *infra*, "Determination of Industry Support for the Petition."

##### *Scope of Investigation*

The products covered by this investigation are colored synthetic organic pigment dispersions containing pigments classified in either the Azo or Phthalocyanine chemical classes that have been dispersed in an oleoresinous varnish comprised of various combinations of solvents, oils and resins. The subject pigment dispersions are commonly known as "flush" or "flushed color," but the base form of the subject pigment dispersions is also included in the scope of this investigation. The subject pigment dispersions are a thick putty or paste that contain by weight typically 20 percent or more pigment dispersed in the varnish, and are used primarily for

the manufacture of letterpress and lithographic printing inks. The presence of additives, such as surfactants, antioxidants, wetting agents, and driers, in the subject pigment dispersions does not exclude them from the scope of this investigation.

Excluded from the scope of this investigation are dry powder pigments and pigment press cakes, as well as water and flammable solvent based colored pigment dispersions, which typically are used in manufacturing liquid or fluid inks. Also excluded is Yellow 75, which is typically used to make the yellow paint to line roads.

The merchandise subject to this investigation is classifiable under subheadings 3204.17.6020 (Pigment Blue 15:4), 3204.17.6085 (Pigments Red 48:1, Red 48:2, Red 48:3, and Yellow 174), 3204.17.9005 (Pigment Blue 15:3), 3204.17.9010 (Pigment Green 7), 3204.17.9015 (Pigment Green 36), 3204.17.9020 (Pigment Red 57:1), 3204.17.9045 (Pigment Yellow 12), 3204.17.9050 (Pigment Yellow 13), 3204.17.9055 (Pigment Yellow 74), and 3204.17.9086<sup>1</sup> (Pigments Red 22, Red 48:4, Red 49:1, Red 49:2, Red 52:1, Red 53:1, Yellow 14, and Yellow 83) of the Harmonized Tariff Schedule of the United States ("HTS"). Although the HTS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

As discussed in the preamble to the Department's regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 calendar days of publication of this 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. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determination.

##### *Period of Investigation*

The anticipated period of investigation is April 1, 2002, through March 31, 2003.

<sup>1</sup> Prior to July 2002, this number was 3204.17.9085.

*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 the Department's industry support determination, which is to be made before the initiation of the investigation, be based on 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: (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. 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 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 the law.<sup>2</sup>

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the 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 definition of 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 presented by the petitioners, we have determined that there is a single domestic like product, colored pigment dispersions, which is defined in the "Scope of Investigation" section above, and we have analyzed industry support in terms of this domestic like product.

In their initial petition and subsequent submissions, the petitioners state that they comprise over 50 percent of U.S. colored pigment dispersions production. The petition identifies nine additional U.S. companies engaged in the production of colored pigment dispersions, none of which have taken a position on (either for or against) the petition. Through data provided by the petitioners and our own independent research, we have determined that the colored pigment dispersions production of these nine companies is not high enough to place the petitioners' industry support in jeopardy. Based on all available information, we agree that the petitioners comprise over 50 percent of all domestic colored pigment dispersions production.

Our review of the data provided in the petition and other information readily available to the Department indicates that the petitioners have established industry support representing over 50 percent of total production of the domestic like product, requiring no further action by the Department pursuant to section 732(c)(4)(D) of the Act. In addition, the Department received no opposition to the petition from domestic producers of the like product. Therefore, the domestic producers or workers who support the petition account for at least 25 percent of the total production of the domestic like product, and the requirements of section 732(c)(4)(A)(I) of the Act are met. Furthermore, the domestic producers or workers who support the petition account for 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. Thus, the requirements of section 732(c)(4)(A)(ii) of the Act also are met. 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. For more information on our analysis and the data upon which we relied, see Import Administration AD/CVD Enforcement Initiation Checklist ("Initiation Checklist"), Industry Support section and Attachment II, dated June 25, 2003, on file in the Central Records Unit of the main Department of Commerce building.

*Constructed Export Price and Normal Value*

The following are descriptions of the allegations 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 and adjustments relating to U.S. price, constructed value ("CV"), and factors of production are discussed in greater detail 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 re-examine the information and revise the margin calculations, if appropriate.

*Constructed Export Price*

The petitioners alleged that the subject colored pigment dispersions produced in India by Hindustan Inks and Resins Ltd. ("Hindustan") (*i.e.*, the largest Indian producer named in the petition) were sold in the United States through its affiliate Micro Inks. Therefore, the petitioners based U.S. price on constructed export price ("CEP"). According to the data provided by the petitioners, in the United States Micro Inks sells the subject colored pigment dispersions imported from Hindustan in the flush form as imported and as further manufactured into printing ink. The petitioners based CEP prices for colored pigment dispersions sold as imported on invoice prices adjusted for movement expenses, indirect selling expenses, and CEP profit. The CEP prices for further manufactured colored pigment dispersions were based on Micro Inks' listed prices for printing ink adjusted for movement expenses, indirect selling expenses, CEP profit and further manufacturing costs. For margin calculation purposes, we excluded one of the three prices for the sale of flush colored pigment dispersions because we were unable to definitively determine

<sup>2</sup> See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (Ct. Int'l Trade 2001), citing *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 642-44 (Ct. Int'l Trade 1988) ("the ITC does not look behind ITA's determination, but accepts ITA's determination as to which merchandise is in the class of merchandise sold at LTFV").

from the invoice if the sale was to a U.S. customer.

#### *Normal Value*

The petitioners alleged that neither India nor any third country constitutes a viable market on which to base normal value ("NV"). Therefore, the petitioners based NV on CV, using the factors of production of one of the petitioners, but incorporating values derived largely from publicly available Indian data. Specifically, the petitioners used the U.S. producer's own consumption rates for raw materials, direct labor, electricity, natural gas and water, and applied either publicly available Indian prices or the U.S. producer's own costs. For certain raw materials and electricity, natural gas and water, the petitioners relied upon average market prices obtained from publically available sources. To adjust the U.S. producer's costs associated with direct labor, the petitioners relied upon the Indian labor rate found on the Import Administration website. To calculate overhead, selling, general and administrative expense, and financial expense, the petitioners relied upon amounts reported in the fiscal year 2002 financial statements of Hindustan. The petitioners included in CV an amount for profit which was based on the profit from Hindustan's fiscal year 2002 financial statements. The petitioners converted NV into U.S. dollars using the exchange rates posted on the Department's website.

The estimated dumping margins in the petition for flush form based on a comparison between CEP and CV range from 138 percent to 677 percent.<sup>3</sup> The estimated dumping margins in the petition for further manufactured colored pigment dispersions based on a comparison between CEP and CV range from 189 percent to 685 percent.

#### *Fair Value Comparisons*

Based on the data provided by the petitioners, there is reason to believe that imports of certain colored synthetic organic oleoresinous pigment dispersions from India are being, or are likely to be, sold at less than fair value.

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

The petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of imports from India of the subject merchandise sold at less than NV.

The petitioners contend that the industry's injured condition is evident in the declining trends in net operating profits, net sales volumes, profit-to-sales ratios, and production employment. The allegations of injury and causation are supported by relevant evidence including U.S. import data, lost sales, and pricing information. 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 the Initiation Checklist.

#### *Initiation of Antidumping Investigation*

Based upon our examination of the petition on certain colored synthetic organic oleoresinous pigment dispersions from India, we have found that it meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of certain colored synthetic organic oleoresinous pigment dispersions from India are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended pursuant to section 733(b)(1)(A) of the Act, 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 representatives of the Government of India. We will attempt to provide a copy of the public version of the petition to each exporter named in the petition, as provided for under 19 CFR 351.203(C)(2).

#### *ITC Notification*

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

#### *Preliminary Determination by the ITC*

The ITC will preliminarily determine no later than July 21, 2003, whether there is a reasonable indication that imports of Certain Colored Synthetic Organic Oleoresinous Pigment Dispersions from India are causing material injury, or threatening to cause 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: June 25, 2003.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-588-810]

#### **Mechanical Transfer Presses From Japan: Final Results of Antidumping Duty Administrative Review.**

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

**SUMMARY:** On March 7, 2003, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on mechanical transfer presses (MTPs) from Japan (68 FR 11039). This review covers shipments of this merchandise to the United States during the period of February 1, 2001 through January 31, 2002.

We gave interested parties an opportunity to comment on our preliminary results. We received a letter from the respondent stating that it had no comments. We received no other comments.

**EFFECTIVE DATE:** July 2, 2003.

**FOR FURTHER INFORMATION CONTACT:**

Jacqueline Arrowsmith or Doug Campau, Office of Antidumping/Countervailing Duty Enforcement VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-5255 or (202) 482-1395, respectively.

**SUPPLEMENTARY INFORMATION:**

#### **Background**

On March 7, 2003, the Department published the preliminary results of its administrative review of the antidumping duty order on MTPs from Japan. *See Mechanical Transfer Presses from Japan: Preliminary Results of Antidumping Duty Administrative Review*, 68 FR 11039 (March 7, 2003). In the *Preliminary Results*, we found that U.S. sales were not made below normal value by the respondent. We gave interested parties an opportunity to comment on our preliminary results. We received a letter from the respondent stating it had no comments. The Department received no other comments and no requests for a hearing. The

<sup>3</sup> The margins associated with the excluded invoice were not included in this range. *See* "Constructed Export Price" section above.