

APPENDIX—SUBSIDY PROGRAMS ON CHEESE SUBJECT TO AN IN-QUOTA RATE OF DUTY

Country	Program(s)	Gross ¹ subsidy (\$/lb)	Net ² subsidy (\$/lb)
Austria	European Union Restitution Payments	\$0.14	\$0.14
Belgium	EU Restitution Payments	0.01	0.01
Canada	Export Assistance on Certain Types of Cheese	0.23	0.23
Denmark	EU Restitution Payments	0.06	0.06
Finland	EU Restitution Payments	0.14	0.14
France	EU Restitution Payments	0.12	0.12
Germany	EU Restitution Payments	0.05	0.05
Greece	EU Restitution Payments	0.05	0.05
Ireland	EU Restitution Payments	0.06	0.06
Italy	EU Restitution Payments	0.08	0.08
Luxembourg	EU Restitution Payments	0.07	0.07
Netherlands	EU Restitution Payments	0.05	0.05
Norway	Indirect (Milk) Subsidy	0.35	0.35
	Consumer Subsidy	0.16	
		0.16	
		0.51	
Portugal	EU Restitution Payments	0.04	0.04
Spain	EU Restitution Payments	0.06	0.06
Switzerland	Deficiency Payments	0.07	0.07
U.K.	EU Restitution Payments	0.04	0.04

¹ Defined in 19 U.S.C. 1677(5).² Defined in 19 U.S.C. 1677(6).

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-533-837]

Notice of Initiation of Countervailing Duty Investigation: Certain Colored Synthetic Organic Oleoresinous Pigment Dispersions From India

AGENCY: Import Administration, International Trade Administration, Department of Commerce.**ACTION:** Initiation of Countervailing Duty Investigation.**EFFECTIVE DATE:** July 2, 2003.**FOR FURTHER INFORMATION CONTACT:**

Geoffrey Craig at (202) 482-5256 or Stephen Cho at (202) 482-3798, 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, June 18, and June 20, 2003.

In accordance with section 702(b)(1) of the Tariff Act of 1930 ("the Act"), as amended, the petitioners allege that manufacturers, producers, or exporters of certain colored synthetic organic oleoresinous pigment dispersions ("colored pigment dispersions") from India receive countervailable subsidies within the meaning of section 701 of the Act, and that such 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 countervailing 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 3204.17.9086¹ (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

¹ Prior to July 2002, this number was 3204.17.9085.

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.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the Government of India ("GOI") for consultations with respect to the petition filed in this proceeding. However, the GOI declined our invitation, and therefore consultations were not held.

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act require that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provide 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 702(c)(4)(D) of the Act provide 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.²

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 petitioners do 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 702(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 702(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 702(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 702(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.

Injury Test

Because India is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, section 701(a)(2) applies to these investigations. Accordingly, the ITC must determine whether imports of the subject merchandise from India materially injure, or threaten material injury to, a U.S. industry.

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 of the subject merchandise.

² 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 ITAs determination as to which merchandise is in the class of merchandise sold at LTFV").

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 statutory requirements for initiation. See the Initiation Checklist.

Initiation of Countervailing Duty Investigation

The Department has examined the countervailing duty petition on colored pigment dispersions from India and found that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating countervailing duty investigation to determine whether manufacturers, producers, or exporters of colored pigment dispersions receive countervailable subsidies. We will make our preliminary determination no later than 65 days after the date of this initiation, unless this deadline is extended pursuant to section 703(b)(1) of the Act.

We are including in our investigation the following programs alleged in the petition to have provided a countervailable subsidy to manufacturers, producers, or exporters of colored pigment dispersions:

1. Duty Entitlement Passbook Scheme
2. Advance Licenses
3. Duty Free Replenishment Certificate Scheme
4. Import Mechanism (Sale of Licenses)
5. Pre-Shipment and Post-Shipment Export Financing
6. Export Promotion Capital Goods Scheme ("EPCGS")
7. Benefits for Export Processing Zones/Export Oriented Units ("EPZ/EOU")
8. Special Imprest Licenses (Deemed Exports)
9. Incentive Scheme for Export Oriented Park, Export Oriented Units (State of Gujarat Infrastructure Assistance Scheme)
10. Subsidy Scheme for Medium and Large Industries (State of Gujarat Infrastructure Assistance Scheme)
11. Income Tax Exemption Scheme ("ITES") (Sections 10A, 10B and 80HHC)
12. Re-Discounting of Export Bills Abroad ("EBR")
13. Pre-Export and Post-Export Credits in Foreign Country

14. Exemption of Export Credit from Interest Taxes
15. Central Value Added Tax ("CENVAT") Scheme
16. Market Access Initiative ("MAI")

A discussion of evidence supporting our initiation determination on these programs is contained in the *Initiation Checklist*.

At this time, we are not including in our investigation of colored pigment dispersions the following programs alleged to benefit producers and exporters of the subject merchandise in India.

1. Special Economic Zones (State of Gujarat Infrastructure Assistance Scheme)

According to the petitioners, the State of Gujarat infrastructure provides assistance to industrial units located in special economic zones under its Special Economic Zones scheme. Under the program, industrial units located in SEZs in Gujarat will receive incentives including exemption from electrical duty for ten years and exemption from payment of sales and other levies. Petitioners claim that this program results in revenue forgone by the State of Gujarat and is specific to companies located within a designated geographic region of Gujarat.

In *Final Negative Countervailing Duty Determination; Carbon Steel Wire Rod From Singapore*, 51 FR 3357 (January 27, 1986), we found that the right to locate in an industrial park can confer a subsidy only if the government limits the firms that can locate in the industrial park. The petitioners have provided no information indicating that the State of Gujarat is limiting access to the SEZ. Thus, the petitioners have not provided sufficient evidence that this alleged subsidy is specific within the meaning of section 771(5A) of the Act and section 351.502 of the Department's regulations.

2. Financial Assistance for Upgradation of Quality in SSI/Medium & Large Scale Sector (State of Gujarat Infrastructure Assistance Scheme)

According to the petitioners, the State of Gujarat provides infrastructure assistance to registered industrial units under its Financial Assistance for Upgradation of Quality in SSI/Medium & Large Scale Section. This alleged program applies to "all industrial units which have been registered as a SSI/SSEB with respective DICs or/and industries registered under Industries (Development & Regulation) Act, 1951 as amended * * *." Under this alleged program, eligible industrial units are eligible for government reimbursements

of up to 50 percent for expenditures such as consultant fees and equipment for research and development, and testing equipment. Petitioners claim that this alleged program results in a direct transfer of funds from the State of Gujarat that benefit the recipients in the amount of the infrastructure expenses paid.

The petitioners have provided no information indicating that the benefits provided under this program are specific. In particular, there is no information that the eligible companies comprise a specific group of industries within the meaning of section 771(5A) of the Act and section 351.502 of the Department's regulations.

3. GOI Loans, Loan Guarantees, and Loan Forgiveness

According to the petitioners, the Indian Ministry of Finance extends loan guarantees to selected Indian companies on an *ad hoc* basis and continues to extend loan guarantees to non-steel industrial sectors on an *ad hoc* basis. Petitioners assert that the GOI has been found to provide loans on terms that are more favorable than commercially available. Petitioners also claim that the GOI has forgiven past loans in some cases. Lastly, the petitioners allege that Hindustan and other Indian producers and exporters of subject merchandise have received countervailable subsidies in the forms of GOI loans, loan guarantees, and loan forgiveness.

The petitioners have provided no information to support their supposition that manufacturers and exporters of the subject merchandise received loans, loan guarantees, or debt forgiveness.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) 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 702(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

National Institute of Standards and Technology

Visiting Committee on Advanced Technology

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Request for nominations of members to serve on the Visiting Committee on Advanced Technology.

SUMMARY: NIST invites and requests nomination of individuals for appointment to the Visiting Committee on Advanced Technology (VCAT). The terms of some of the members of the VCAT will soon expire. NIST will consider nominations received in response to this notice for appointment to the Committee, in addition to nominations already received.

DATES: Please submit nominations on or before July 17, 2003.

ADDRESSES: Please submit nominations to Nancy Miles, Administrative Coordinator, Visiting Committee on Advanced Technology, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1000, Gaithersburg, MD 20899-1000.

Nominations may also be submitted via FAX to (301) 869-8972.

Additional information regarding the Committee, including its charter, current membership list, and executive summary may be found on its electronic Home page at: <http://www.nist.gov/director/vcat/vcat.htm>.

FOR FURTHER INFORMATION CONTACT:

Nancy Miles, Administrative Coordinator, Visiting Committee on Advanced Technology, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 1000, Gaithersburg, MD 20899-1000, telephone (301) 975-2300, fax (301) 869-8972; or via e-mail at nancy.miles@nist.gov.

SUPPLEMENTARY INFORMATION

VCAT Information

The VCAT was established in accordance with 15 U.S.C. 278 and the Federal Advisory Committee Act (5 U.S.C. app. 2).

Objectives and Duties

1. The Committee shall review and make recommendations regarding general policy for NIST, its organization, its budget, and its programs, within the framework of applicable national policies as set forth by the President and the Congress.

2. The Committee functions solely as an advisory body, in accordance with the provisions of the Federal Advisory Committee Act.

3. The Committee shall report to the Director of NIST.

4. The Committee shall provide a written annual report, through the Director of NIST, to the Secretary of Commerce for submission to the Congress on or before January 31 each year. Such report shall deal essentially, though not necessarily exclusively, with policy issues or matters which affect the Institute, or with which the Committee in its official role as the private sector policy adviser of the Institute is concerned. Each such report shall identify areas of research and research techniques of the Institute of potential importance to the long-term competitiveness of United States industry, which could be used to assist United States enterprises and United States industrial joint research and development ventures. The Committee shall submit to the Secretary and the Congress such additional reports on specific policy matters as it deems appropriate.

Membership

1. The Committee is composed of fifteen members that provide representation of a cross-section of traditional and emerging United States industries. Members shall be selected solely on the basis of established records of distinguished service and shall be eminent in one or more fields such as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations. No employee of the Federal Government shall serve as a member of the Committee.

2. The Director of the National Institute of Standards and Technology shall appoint the members of the Committee, and they will be selected on a clear, standardized basis, in accordance with applicable Department of Commerce guidance.

Miscellaneous

1. Members of the VCAT are not paid for their service, but will, upon request, be allowed travel expenses in accordance with 5 U.S.C. 5701 *et seq.*, while attending meetings of the Committee or of its subcommittees, or while otherwise performing duties at the request of the chairperson, while away from their homes or a regular place of business.

2. Meetings of the VCAT take place in the Washington, DC metropolitan area, usually at the NIST headquarters in Gaithersburg, Maryland, and once each year at the NIST headquarters in Boulder, Colorado. Meetings are one or two days in duration and are held quarterly.

3. Committee meetings are open to the public except for approximately one hour, usually at the beginning of the meeting, a closed session is held in accordance with 5 U.S.C. 552b(c)(6), because divulging information discussed in those portions of the meetings is likely to reveal information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. All other portions of the meetings are open to the public.

Nomination Information

1. Nominations are sought from all fields described above.

2. Nominees should have established records of distinguished service and shall be eminent in fields such as business, research, new product development, engineering, labor, education, management consulting, environment and international relations. The category (field of eminence) for which the candidate is qualified should be specified in the nomination letter. Nominations for a particular category should come from organizations or individuals within that category. A summary of the candidate's qualifications should be included with the nomination, including (where applicable) current or former service on federal advisory boards and federal employment. In addition, each nomination letter should state that the person agrees to the nomination, acknowledge the responsibilities of serving on the VCAT, and will actively participate in good faith in the tasks of the VCAT. Besides participation at meetings, it is desired that members be able to devote the equivalent of two days between meetings to either developing or researching topics of potential interest, and so forth in furtherance of their Committee duties.

3. The Department of Commerce is committed to equal opportunity in the