

conclude that the sale was neither commercially reasonable nor *bona fide*.

### Comments

The Department provided parties an opportunity to comment on the Intent to Rescind Memo dated August 21, 2003. The initial deadline for comments for all parties was August 29, 2003; however, Nutrin requested a seven day extension of time to file its comments. The Department granted the extension and set an extended due date of September 5, 2003. On September 5, 2003, Nutrin requested yet another extension of time; however, the Department denied this additional request given its statutory and regulatory time constraints in completing this review. Nutrin did not submit comments regarding the Department's Intent to Rescind even though it had two weeks to do so. Petitioners submitted comments supporting the Department's position to rescind the new shipper review with respect to Nutrin.

### Rescission of New Shipper Reviews

We received no comments rebutting or in disaccord with the Department's findings in its Intent to Rescind Memo regarding Nutrin. Therefore, for the reasons stated above and pursuant to section 751(a)(2)(B) and 19 CFR 351.214(f), we are rescinding this new shipper review.

### Notification

The Department will notify the U.S. Bureau of Customs and Border Protection that bonding is no longer permitted to fulfill security requirements for shipments of Argentine honey by Nutrin entered, or withdrawn from warehouse, for consumption in the United States on or after the publication of this rescission notice in the **Federal Register**, and that a cash deposit of 30.24 percent ad valorem should be collected for any entries exported by Nutrin.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(2)(B) and 777(i) of the Act.

Dated: October 2, 2003.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-001]

#### Potassium Permanganate From the People's Republic of China: Rescission of Antidumping Duty Administrative Review

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

**ACTION:** Notice of rescission of the antidumping duty administrative review of potassium permanganate from the People's Republic of China.

**SUMMARY:** In response to requests from the petitioner, Carus Chemical Company (Carus), and a U.S. importer, Groupstars Chemicals, LLC, the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on potassium permanganate from the People's Republic of China (PRC) covering the period January 1, 2002 through December 31, 2002. Because Carus withdrew its review request, and Groupstars Chemicals, LLC's review request does not identify the PRC exporter to be reviewed, the Department is rescinding this administrative review.

**EFFECTIVE DATE:** October 9, 2003.

**FOR FURTHER INFORMATION CONTACT:** John Conniff or Drew Jackson, 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) 482-1009 and (202) 482-4406, respectively.

#### SUPPLEMENTARY INFORMATION:

#### Background

On January 31, 1984, the Department published in the **Federal Register** (49 FR 3897) the antidumping duty order on potassium permanganate from the PRC (the order). On January 2, 2003, the Department issued a notice of "Opportunity to Request Administrative Review" of the order on a number of products including potassium permanganate from the PRC. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 68 FR 80. On January 28, 2003, Groupstars Chemicals, LLC requested that the Department conduct an administrative review of the order. On January 31, 2003, Carus requested an administrative review of Groupstars Chemicals Co., Ltd.-Shandong, Groupstars Chemical Co.,

Ltd.-Yunan (a joint venture owned by Groupstars Chemicals, LLC and the Yunan Jianshui County Chemical Industry Factory (JCC)), JCC and the Jianshui Chemical Plant (also translated as Jianshui Chemical Factory and Jianshui General Chemical Plant).

On February 27, 2003, and March 25, 2003, the Department published in the **Federal Register** notices initiating administrative reviews of the requested companies. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 68 FR 9048 and *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 68 FR 14394 (this notice includes companies inadvertently omitted from the February 27, 2003, initiation notice).

On March 17, 2003, the Department issued its antidumping questionnaire to the respondents. Groupstars Chemicals Co., Ltd. (which includes both the Shandong and Yunan operations) (Groupstars) responded to the Department's questionnaire on April 21, 2003 and May 8, 2003. On May 29, 2003, Groupstars submitted a letter to the Department on behalf of JCC (also referred to as Jianshui County Chemical Industry Factory) stating that JCC and the Jianshui General Chemical Plant are the same company, and this company did not have any sales to the United States during the POR. The Department issued a supplemental questionnaire to Groupstars on May 15, 2003. In Groupstars' June 10, 2003, response to the supplemental questionnaire, it stated that Groupstars Chemical Co., Ltd.-Yunan did not have any sales of the subject merchandise to the United States during the POR. See Groupstars' June 10, 2003, supplemental response at 6.

In a letter dated September 11, 2003, Groupstars notified the Department that it will no longer participate in the administrative review. On September 16, 2003, Carus withdrew its request for an administrative review and urged the Department to immediately rescind the administrative review.

The Department is conducting this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

#### Rescission of Review

On January 28, 2003, Groupstars Chemicals, LLC submitted a letter to the Department in which it requested "an antidumping administrative review in the above-referenced matter {potassium permanganate from the People's Republic of China;} for the review period covering January 1, 2002 to December 31, 2002." On January 31,

2003, Carus requested an administrative review of Groupstars Chemicals Co., Ltd.-Shandong, Groupstars Chemical Co., Ltd.-Yunnan, JCC and the Jianshui Chemical Plant. Based on these requests, the Department initiated an administrative review of Groupstars Chemicals, LLC, Groupstars Chemicals Co., Ltd.-Shandong, Groupstars Chemical Co., Ltd.-Yunnan, JCC and the Jianshui Chemical Plant.

The Department is rescinding its review of the companies named in Carus' request for review because Carus has withdrawn its request. See Carus' September 16, 2003 letter to the Department. Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. Although Carus withdrew its request after the 90-day period, there were no other requests to review any of the companies for which Carus requested a review, and the review for these companies had not yet progressed beyond a point where it would have been unreasonable to allow Carus to withdraw its request for a review. This action is consistent with the approach taken in past antidumping proceedings. See *Frozen Concentrated Orange Juice From Brazil: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 40913, 40914 (June 14, 2002) where, pursuant to a request filed after the 90 day deadline, the Department rescinded the review. Additionally, 19 CFR 351.213(d)(1) provides that the Secretary may extend the time limit for withdrawal requests where it is reasonable. Therefore, for the above stated reasons, the Department pursuant to 19 CFR 351.213(d)(1), has decided that it is reasonable to accept Carus' withdrawal of its request for review.

Furthermore, with respect to the remaining review request, we have determined that it is appropriate to rescind the review of Groupstars Chemicals, LLC because this company is a U.S. importer, rather than an exporter or producer, of subject merchandise and it failed to identify the exporter(s) or producer(s) to be reviewed. See Groupstars Chemicals, LLC's January 28, 2003 letter to the Department. Section 351.213(b) of the Department regulations requires that reviews be requested for particular exporters or producers. See 19 CFR 351.213(b)(1) stating that domestic interested parties may request an administrative review of "specified individual exporters or producers"; 19 CFR 351.213(b)(2)

stating that an exporter or producer may request an "administrative review of only that person;" 19 CFR 351(b)(3) stating that an importer of subject merchandise may request an administrative review of only an "exporter or producer \* \* \* of the subject merchandise imported by that importer." Moreover, the courts have held that the party requesting the review, not the Department, bears the burden of naming and selecting the proper party to be reviewed. See e.g., *Floral Trade Council v. United States*, 888 F.2d 1366, 1369 (Fed. Cir. 1989) (where the Court of Appeals for the Federal Circuit held that a request for an administrative review must be for review of "specified individual \* \* \* producers [] or exporters"). Additionally, in past PRC cases, the Department has rescinded administrative reviews when requesting parties failed to identify the actual PRC exporter of the subject merchandise in their review requests. See *Iron Construction Castings from the People's Republic of China: Rescission of Antidumping Duty Administrative Review*, 68 FR 33103-01 (June 3, 2003) (in which the Department rescinded the review because the company for which the review was requested and initiated was not an exporter of subject merchandise, but a producer of subject merchandise); see also *Certain Cased Pencils From the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 66 FR 1638-02 (January 9, 2001) (in which a party requested a review of the producer of subject merchandise, rather than the exporter of subject merchandise); see also *Laizhou City Guangming Pencil-Making Co. Ltd., Et Al., v. United States*, No. 02-151, Slip Op. 02-151, 01-00047 (Ct. Int'l Trade December 18, 2002). Because Groupstars Chemicals, LLC is not a PRC exporter of the subject merchandise, and failed to identify any PRC exporter(s) of the subject merchandise in its review request, and with Carus' withdrawal of its review requests, the Department is rescinding this review with respect to Groupstars Chemicals, LLC.

The Department will issue appropriate assessment instructions to the U.S. Bureau of Customs and Border Protection.

#### Notification to Interested Parties

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries

during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This determination and notice are issued and published in accordance with 19 CFR 351.213(d)(4) and, sections 751(a)(2)(c) and 777(i)(1) of the Act.

Dated: October 2, 2003.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### North American Free-Trade Agreement, Article 1904; NAFTA Panel Reviews; Request for Panel Review

**AGENCY:** NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

**ACTION:** Notice of First Request for Panel Review.

**SUMMARY:** On October 3, 2003, the Canadian Wheat Board filed a First Request for Panel Review with the United States Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free Trade Agreement. Panel review was requested of the final determination of Sales at Less Than Fair Value made by the United States Department of Commerce, International Trade Administration, respecting Certain Durum Wheat and Hard Red Spring Wheat from Canada. This determination was published in the **Federal Register**, (68 FR 52741) on September 5, 2003. The NAFTA Secretariat has assigned Case Number USA-CDA-2003-1904-04 to this request.

**FOR FURTHER INFORMATION CONTACT:** Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite