

The issues discussed in the Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the order were to be revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in room B-099 of the main Commerce Building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at <http://ia.ita.doc.gov/frn>, under the heading "October 2004." The paper copy and electronic version of the Decision Memorandum are identical in content.

### Final Results of Reviews

We determine that revocation of the antidumping duty order on natural paint brushes from the PRC would be likely to lead to continuation or recurrence of dumping at the following percentage weighted-average percentage margins:

Manufacturers/Exporters/Producers	Weighted average margin (percent)
Hebei Animal By-Products Import/Export Corp. ....	351.92
Hunan Provincial Native Produce and Animal By-Products Import/Export Corp. ....	351.92
Peace Target, Inc. ....	351.92
PRC-wide .....	351.92

We are issuing and publishing the results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 15, 2004.

**Jeffrey A. May,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-588-046]

### Notice of Preliminary Results of Antidumping Duty Changed Circumstances Review: Polychloroprene Rubber From Japan

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

**ACTION:** Notice of preliminary results of antidumping duty changed circumstances review.

**SUMMARY:** On March 1, 2004, the Department of Commerce (the Department) published a notice of initiation of changed circumstances review of the antidumping duty finding on polychloroprene rubber (PR) from Japan to determine whether Showa Denko K.K. (SDK) is the successor-in-interest company to the joint venture of Showa DDE Manufacturing K.K. (SDEM) and DDE Japan Kabushiki Kaisha (DDE Japan) (collectively, SDEM/DDE Japan joint venture). *See Notice of Initiation of Antidumping Duty Changed Circumstances Review: Polychloroprene Rubber from Japan*, 69 FR 9586 (March 1, 2004) (*Notice of Initiation*). We have preliminarily determined that SDK is not the successor-in-interest to the SDEM/DDE Japan joint venture, for purposes of determining antidumping liability in this proceeding. Interested parties are invited to comment on these preliminary results.

**EFFECTIVE DATE:** October 21, 2004.

**FOR FURTHER INFORMATION CONTACT:** Zev Primor, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-4114.

### SUPPLEMENTARY INFORMATION:

#### Background

On December 6, 1973, the Department of Treasury published in the **Federal Register** (38 FR 33593) the antidumping finding on PR from Japan. On January 14, 2004, SDK submitted a letter stating that it is the successor-in-interest to the SDEM/DDE Japan joint venture and, as such, entitled to receive the same antidumping duty treatment previously accorded to the joint venture (*i.e.*, zero cash deposit). *See Notice of Final Changed Circumstances Antidumping Duty Administrative Review: Polychloroprene Rubber from Japan*, 67 FR 58 (January 2, 2002), (*Changed Circumstances*). In that same letter, SDK explained that on November 1, 2002, the SDEM/DDE Japan joint venture was dissolved. Prior to the joint venture's dissolution, SDK and DuPont Dow Elastomers L.L.C. (DuPont) each owned 50 percent of the joint venture. SDK, therefore, requested that the Department conduct an expedited changed circumstances review of the antidumping duty finding on PR from Japan pursuant to section 751(b)(1) of the Tariff Act (the Act), as amended, and 19 CFR 351.221(c)(3)(ii). However, because the submitted record supporting SDK's claims was deficient, the Department found that an expedited review was impracticable and, on March

1, 2004, issued a *Notice of Initiation* without the preliminary results.

In response to the Department's supplemental questionnaire, on March 10 and 19, 2004, SDK provided the Department with supplemental questionnaire responses. Additionally, on February 4 and May 3, 2004, DuPont, a U.S. producer of PR and the petitioner in this proceeding, notified the Department that it opposes SDK's request to be considered the successor-in-interest to the SDEM/DDE Japan joint venture. In particular, DuPont argued that differences between the corporate structures, distribution channels, price structure, and customer base preclude SDK from being considered the successor-in-interest to the SDEM/DDE Japan joint venture.

From August 25 through August 27, 2004, the Department conducted a verification of information in connection with this changed circumstances review at SDK's offices in Kawasaki, Japan. On September 20, 2004, the Department issued its Verification Report. *See Memorandum from Zev Primor to the File "Antidumping Duty Changed Circumstances Review of Polychloroprene Rubber (PR) from Japan: Verification Report for Showa Denko K.K. (SDK) Regarding Successorship,"* September 20, 2004, (Verification Report).

### Scope of Review

Imports covered by this review are shipments of PR, an oil resistant synthetic rubber also known as polymerized chlorobutadiene or neoprene, currently classifiable under items 4002.42.00, 4002.49.00, 4003.00.00, 4462.15.21, and 4462.00.00 of the *Harmonized Tariff Schedule of the United States* (HTSUS). HTSUS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

### Preliminary Results of Changed Circumstances Review

In submissions to the Department dated January 14, 2004, and March 10 and March 19, 2004, SDK advised the Department that on November 1, 2002, the SDEM/DDE Japan joint venture was dissolved. SDEM was the manufacturing arm of the joint venture, while DDE Japan was its marketing and selling arm. When the joint venture was dissolved, DuPont sold its interest in SDEM to SDK. SDK, in turn, sold its interest in DDE Japan to DuPont. As a result of those interest transfers, SDK became the sole owner of SDEM and DuPont became the sole owner of DDE Japan. On the same date, November 1, 2002,

SDEM was renamed Showa Denko Elastomers (SDEL), while maintaining the original production facility. SDK assumed the marketing and selling end of SDEL's business. On January 1, 2004, SDK merged with its wholly-owned subsidiary SDEL, thus creating a single corporate entity by the name of SDK.

#### Analysis

In making a successor-in-interest determination, the Department examines a number of factors, including, but not limited to, changes in: (1) Management; (2) customer base; (3) production facilities; and (4) supplier relationships. *See Brass Sheet and Strip from Canada: Notice of Final Results of Antidumping Administrative Review*, 57 FR 20460, 20462 (May 13, 1992) (*Canadian Brass*); *Notice of Final Results of Changed Circumstances Antidumping Countervailing Duty Administrative Reviews: Certain Pasta from Turkey*, 69 FR 1280 (January 8, 2004). While none of these factors alone will necessarily be dispositive, the Department will generally consider the new company to be the successor to the previous company if—considering all of the factors together—the new company's resulting operation is not materially dissimilar to that of its predecessor. *See, e.g., Industrial Phosphoric Acid from Israel: Final Results of Changed Circumstances Review*, 59 FR 6944, 6945 (February 14, 1994), and *Canadian Brass*, 57 FR 20460. In other words, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company essentially operates as the same business entity as the former company, the Department will assign the new company the cash deposit rate of its predecessor.

Based on our review of the evidence provided by SDK and DuPont, we preliminarily determine that SDK is not the successor-in-interest to the SDEM/DDE Japan joint venture. While record evidence indicates that SDK retained the same production facility and suppliers as the joint venture entity (*see* Verification Report, at 10, and Exhibits 10, 14), the record evidence also indicates that SDK's management composition and customer base changed significantly from that of the SDEM/DDE Japan joint venture.

#### 1. Customer Base

##### A. Selling and Marketing Operations

Under the joint venture arrangement, DDE Japan was solely responsible for developing and maintaining the customer base, planning future sales and marketing PR to customers in Japan

and the United States. In contrast, SDEM's role in the joint venture was to manufacture PR and supply it to DDE Japan once DDE Japan secured an order. For example, SDK's officials stated at verification that SDEM “did not maintain contact with the U.S. customers.” *See* Verification Report, at 8. Moreover, the record in this case suggests that to compensate for the lack of a distribution channel in the United States after the dissolution of the joint venture, SDK established its own subsidiary, Showa Denko America (SDA), in order to develop new business in the United States. According to the record, SDA purchases PR from SDK and resells it to the end-user customers in the United States. In consultation with SDK, SDA sets the prices and arranges for delivery of PR to such customers. *See* SDK's submission dated March 10, 2004, at 16. Previously under the joint venture arrangement, DDE Japan handled all of these functions. Consequently, SDK is operating a different business now than that which existed before the dissolution of the joint venture, as SDK must now assume all the selling, marketing and credit risks previously borne by its joint venture partner, DDE Japan. *See* Submission by DuPont, at 3 (May 3, 2004).

##### B. Price Structure

With regard to the price structure, DDE Japan negotiated all prices with the unaffiliated customers. Under the terms of the joint venture arrangement, SDEM was guaranteed a fixed transfer price regardless of the price obtained by DDE Japan in the relevant market. In the post-dissolution period, SDK has to negotiate its own prices in the relevant markets and is no longer guaranteed a profit on each transaction. The Department considers this to be a significant change in the competitive environment for SDK.

##### C. Customer Base

As mentioned above, upon the loss of its joint venture marketing arm, DDE Japan, SDK had to develop its own customer base in both the United States and in Japan. At verification, we determined that a significant number of the joint venture's former customers were no longer customers of SDK. *See* Verification Report, at 8 and Exhibit 11. Consequently, we preliminarily determine that the customer base changed significantly since the dissolution of the SDEM/DDE Japan joint venture.

#### 2. Management

##### A. Corporate Structure

The parent companies, SDK and DuPont, initially formed the SDEM/DDE Japan joint venture through a stock exchange, whereby each parent company purchased shares in the other company's subsidiary. As noted above, SDK and DuPont shared ownership of the joint venture equally (*i.e.*, a 50/50 split). The record shows that on November 1, 2002, the corporate structure of the SDEM/DDE Japan joint venture changed significantly. Upon dissolution, each parent company sold to the other parent company its share in that company's subsidiary. The former joint venture companies were then absorbed by their respective parent companies. As explained above, as a result of those interest transfers, SDK became the sole owner of SDEM, which it in turn absorbed. Because SDEM comprised the production arm of the former joint venture, SDK had to create its own PR marketing and selling division following the dissolution. Consequently, the Department preliminarily views SDK's current corporate structure as significantly different from the SDEM/DDE Japan joint venture.

##### B. Management Composition

The record evidence also shows that the management structure of the SDEM/DDE Japan joint venture resulted was significantly different from SDK's management structure. None of the senior managers employed by the DDE Japan office accepted positions with SDK after the dissolution of the joint venture. Only a very small number of former supervisors employed by DDE Japan are now employed by SDK. Further, the composition of the board of directors governing the SDEM/DDE Japan joint venture differed significantly from that of SDK. Prior to the creation of the joint venture, each of the underlying companies, SDEM and DDE Japan, had its own board of directors governing its operations. This management arrangement continued throughout the course of the joint venture arrangement. Upon dissolution of the joint venture, with one exception, the board of directors remained with their respective joint venture partner. Therefore, the Department considers the SDK board of directors to be significantly different from the joint venture board structure. *See* Verification Report, at Exhibit 9. Thus, the record evidence discloses that SDK's management composition varies significantly from that of the SDEM/DDE Japan joint venture entity.

## Conclusion

In sum, we preliminarily find that SDK has not presented evidence to establish a *prima facie* case of its successorship status. The dissolution of the SDEM/DDE Japan joint venture precipitated significant changes to the company ultimately absorbed by SDK. While SDK absorbed the joint venture's production facility and retained the venture's supplier base, SDK's management and corporate structure, selling and marketing operations, customer base, and price structure are significantly different from those of the SDEM/DDE Japan joint venture. Therefore, given the totality of the considered factors, the record evidence demonstrates that SDK is a new entity that operates in significantly different manner from its predecessor, the SDEM/DDE Japan joint venture. Consequently, we preliminarily determine that SDK should not be given the same antidumping duty treatment as the joint venture, *i.e.*, zero percent antidumping duty cash deposit rate. Instead, SDK, as a new entity, should continue to be assigned as its cash deposit rate the "all others" rate, which in this proceeding is 55 percent.

The cash deposit determination from this changed circumstances review will apply to all entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this changed circumstances review. *See Granular Polytetrafluoroethylene Resin from Italy; Final Results of Antidumping Duty Changed Circumstances Review*, 68 FR 25327 (May 12, 2003). This deposit rate shall remain in effect until publication of the final results of the next administrative review in which SDK participates.

## Public Comment

Any interested party may request a hearing within 14 days of publication of this notice. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 15 days after the date of publication of this notice, or the first working day thereafter. Interested parties may submit case briefs and/or written comments not later than 7 days after the date of publication of this notice. *See* 19 CFR 351.309(c)(ii). Rebuttal briefs, which must be limited to issues raised in such briefs or comments, may be filed not later than 12 days after the date of publication of this notice. *See* 19 CFR 351.309(d). Parties who submit arguments are requested to submit with the argument (1) a statement of the issue; (2) a brief summary of the

argument; and (3) a table of authorities. Further, we would appreciate it if the parties submitting written comments would provide the Department with an additional electronic copy of the public comments. Consistent with 19 CFR 351.216(e) of the Department's regulations, we will issue the final results of this changed circumstances review not later than 270 days after the date on which this review was initiated.

This notice is in accordance with sections 751(b) and 777(I)(1) of the Act, and 19 CFR 351.221(c)(3)(I) of the Department's regulations.

Dated: October 15, 2004.

**Jeffrey A. May,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-423-808, A-475-822, A-580-831]

### Stainless Steel Plate in Coils From Belgium, Italy, and the Republic of Korea; Notice of Final Results of Expedited Sunset Review of Antidumping Duty Orders

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

**ACTION:** Notice of expedited sunset reviews of the antidumping duty orders of stainless steel plate in coils from Belgium, Italy, and Korea; final results.

**SUMMARY:** On April 1, 2004, the Department of Commerce ("the Department") initiated sunset reviews of the antidumping duty orders on stainless steel plate in coils ("SSPC") from Belgium, Italy, and the Republic of Korea ("Korea") pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On the basis of a Notice of Intent to Participate and an adequate substantive response filed on behalf of domestic interested parties and inadequate response from respondent interested parties, the Department conducted an expedited (120-day) sunset review. As a result of these sunset reviews, the Department finds that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping. The dumping margins are identified in the *Final Results of Review* section of this notice.

**EFFECTIVE DATE:** October 21, 2004.

**FOR FURTHER INFORMATION CONTACT:**

Hilary E. Sadler, Esq., Office of Policy

for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4340.

## SUPPLEMENTARY INFORMATION:

### Background

On April 1, 2004, the Department published the notice of initiation of the sunset reviews of the antidumping duty orders on SSPC from Belgium, Italy, and Korea.<sup>1</sup> On April 16, 2004, the Department received a Notice of Intent to Participate from Allegheny Ludlum Corp., North American Stainless, and the United Steelworkers of America, AFL-CIO/CLC (collectively "domestic interested parties") within the deadline specified in section 351.218(d)(1)(i) of the Department's regulations. The domestic interested parties claimed interested party status under sections 771(9)(C) and (D) of the Act, as U.S. producers of SSPC and a certified union whose workers are engaged in the production of SSPC. On May 3, 2004, the Department received complete substantive responses from the domestic interested parties within the deadline specified in section 351.218(d)(3)(i) of the Department's regulations. We did not receive responses from any respondent interested parties to this proceeding, except a participation waiver from Ugine & ALZ Belgium. As a result, pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C)(2) of the Department's regulations, the Department determined to conduct expedited reviews of these orders.

### Scope of the Orders

The merchandise subject to these orders is stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (*e.g.*, cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of these orders are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars. The merchandise

<sup>1</sup> *See Initiation of Five-Year ("Sunset") Reviews*, 69 FR 17129 (April 1, 2004) ("Initiation Notice").