

will be assessed uniformly on all entries of the respective importers made during the POR if these preliminary results are adopted in the final results of review. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after the date of publication of the final results of this review.

The Department clarified its “automatic assessment” regulation on May 6, 2003. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*). This clarification will apply to entries of subject merchandise during the POR produced by SeAH for which SeAH did not know that the merchandise it sold to the intermediary (e.g., a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediary involved in the transaction. See *Assessment Policy Notice* for a full discussion of this clarification.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for SeAH will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 7.00 percent, the all-others rate made effective by the LTFV investigation. See *Amended Final Determination and Order*, 60 FR 10061, 10065 (Feb. 23, 1995). These deposit requirements, when imposed, shall remain in effect until further notice.

#### Disclosure and Public Hearing

The Department will disclose to parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice. See 19 CFR 351.224(b). Pursuant to 19 CFR 351.309(c), interested parties may submit cases briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs. See 19 CFR 351.309(d). Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. See 19 CFR 351.309(c)(2) and (d)(2).

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room 1870, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. The Department will issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

#### Notification to Importers

This notice also serves as a preliminary 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 administrative review and notice are published in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(4).

Dated: December 31, 2009.

#### Susan Kuhbach,

Senior Director, Office 1, Antidumping and Countervailing Duty Operations.

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#### DEPARTMENT OF COMMERCE

##### International Trade Administration

[C-533-839]

#### Carbazole Violet Pigment 23 From India: Preliminary Results of Countervailing Duty Administrative Review

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

**SUMMARY:** The Department of Commerce (the Department) is conducting an administrative review of Alpanil Industries, Ltd. (Alpanil) under the countervailing duty order on carbazole violet pigment 23 (CVP-23) from India for the period January 1, 2007, through December 31, 2007. We preliminarily determine that subsidies are being provided to Alpanil on the production and export of CVP-23 from India. See “Preliminary Results of Administrative Review” section, below. If the final results remain the same as the preliminary results of this review, we will instruct U.S. Customs and Border Protection (CBP) to assess countervailing duties. Interested parties are invited to comment on the preliminary results of this administrative review. See the “Public Comment” section below.

**DATES:** *Effective Date:* January 7, 2010.

**FOR FURTHER INFORMATION CONTACT:** Elfi Blum or Myrna Lobo, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0197 or (202) 482-2371, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On December 29, 2004, the Department published in the **Federal Register** the countervailing duty (CVD) order on CVP-23 from India. See *Notice of Countervailing Duty Order: Carbazole Violet Pigment 23 from India*, 69 FR 77995 (December 29, 2004) (CVP-23 Order). On December 1, 2008, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of this order. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 73 FR 72764 (December 1, 2008).

On December 30, 2008, the Department received a timely request to conduct an administrative review from Alpanil, an Indian producer and

exporter of subject merchandise. On December 31, 2008, the Department received a timely request from the Government of India (GOI) also on behalf of Alpanil to conduct an administrative review. On February 2, 2009, the Department initiated an administrative review of the CVD Order on CVP-23 from India covering Alpanil for the period January 1, 2007, through December 1, 2007. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 74 FR 5821 (February 2, 2009). On February 24, 2009, domestic interested parties Nation Ford Chemical Company and Sun Chemical Corporation, who were petitioners in the original investigation, entered an appearance (petitioners).

The Department issued a questionnaire to Alpanil and the GOI on February 17, 2009. On March 23, 2009, the GOI timely submitted its questionnaire response. Alpanil timely submitted its questionnaire response on April 8, 2009. The Department issued its first supplemental questionnaire to Alpanil on April 30, 2009; Alpanil submitted its response on June 2, 2009. Further, the Department issued a second supplemental questionnaire to Alpanil on November 6, 2009; Alpanil responded on December 1, 2009. On November 30, 2009, the Department issued a supplemental questionnaire to the GOI; the GOI responded on December 15, 2009.

On May 5, 2009, the Department received a timely request from petitioners to conduct verification pursuant to 19 CFR § 351.307(b)(1)(v).

On August 19, 2009, the Department extended the time limit for the preliminary results of this administrative review until December 31, 2009. *See Carbazole Violet Pigment 23 from India: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review*, 74 FR 41864 (August 19, 2009).

On December 11, 2009, Alpanil submitted a letter stating that it changed its name on April 9, 2009, to Meghmani Pigments. We are evaluating whether to consider this request in this administrative review.

### Scope of the Order

The merchandise covered by this order is CVP-23 identified as Color Index No. 51319 and Chemical Abstract No. 6358-30-1, with the chemical name of *diindolo [3,2-b:3',2'-m] triphenodioxazine, 8,18-dichloro-5,15-diethy-5,15-dihydro-*, and molecular

formula of  $C_{34}H_{22}Cl_2N_4O_2$ .<sup>1</sup> The subject merchandise includes the crude pigment in any form (e.g., dry powder, paste, wet cake) and finished pigment in the form of presscake and dry color. Pigment dispersions in any form (e.g., pigments dispersed in oleoresins, flammable solvents, water) are not included within the scope of the review. The merchandise subject to this order is classifiable under subheading 3204.17.9040 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise covered by the order is dispositive.

### Subsidies Valuation Information

#### Benchmark Interest Rates

For programs requiring the application of a benchmark interest rate, 19 CFR 351.505(a)(1) states a preference for using an interest rate that the company could have obtained on a comparable commercial loan in the market. Also, 19 CFR 351.505(a)(3)(i) stipulates that when selecting a comparable commercial loan that the recipient "could actually obtain on the market" the Department will normally rely on actual short-term and long-term loans obtained by the firm. However, when there are no comparable commercial loans, the Department may use a national average interest rate, pursuant to 19 CFR 351.505(a)(3)(ii).

Pursuant to 19 CFR 351.505(a)(2)(iv), if a program under review is a government provided, short-term loan program, the preference would be to use a company-specific annual average of the interest rates on comparable commercial loans during the year in which the government-provided loan was taken out, weighted by the principal amount of each loan. For this review, the Department required a rupee-denominated short-term loan benchmark rate to determine benefits received under the Pre-Shipment Export Financing program. For further information regarding this program, see the "Pre-Shipment Shipment Export Financing" section below.

Alpanil did not have any rupee-denominated short-term loans during the POR. Therefore, in accordance with 19 CFR 351.505(a)(3)(ii), the Department used a national average rupee-denominated short-term interest rate, as reported in the International Monetary Fund's publication International

<sup>1</sup>The bracketed section of the product description, *[3,2-b:3',2'-m]*, is not business proprietary information; the brackets are simply part of the chemical nomenclature.

Financial Statistics (IMF Statistics) as the benchmark to determine if Alpanil received benefits under the pre-shipment export financing program.

### A. Programs Preliminarily Determined To Be Countervailable

#### 1. Pre-Shipment and Post-Shipment Export Financing

The Reserve Bank of India (RBI), through commercial banks, provides short-term pre-shipment financing, or "packing credits," to exporters. Upon presentation of a confirmed export order or letter of credit to a bank, companies may receive pre-shipment loans for working capital purposes (i.e., purchasing raw materials, warehousing, packing, transportation, etc.) for merchandise destined for exportation. Companies may also establish pre-shipment credit lines upon which they draw as needed. Limits on credit lines are established by commercial banks and are based on a company's creditworthiness and past export performance. Credit lines may be denominated either in Indian rupees or in a foreign currency. Commercial banks extending export credit to Indian companies must, by law, charge interest at rates determined by the RBI.

Post-shipment export financing consists of loans in the form of discounted trade bills or advances by commercial banks. Exporters qualify for this program by presenting their export documents to the lending bank. The credit covers the period from the date of shipment of the goods to the date of realization of the proceeds from the sale to the overseas customer. Under the Foreign Exchange Management Act of 1999, exporters are required to realize proceeds from their export sales within 180 days of shipment. Post-shipment financing is, therefore, a working capital program used to finance export receivables. In general, post-shipment loans are granted for a period of not more than 180 days.

The Department has previously determined that the pre-shipment and post-shipment export financing program conferred countervailable subsidies on the subject merchandise because: (1) The provision of the export financing constitutes a financial contribution pursuant to section 771(5)(D)(i) of the Act as a direct transfer of funds in the form of loans; (2) the provision of the export financing confers benefits on the respondents under section 771(5)(E)(ii) of the Act to the extent that the interest rates provided under these programs are lower than comparable commercial loan interest rates; and (3) these programs are specific under section 771(5A)(A) and

(B) of the Act because they are contingent upon export performance. See *Final Affirmative Countervailing Duty Determination: Carbazole Violet Pigment 23 from India*, 69 FR 67321 (November 17, 2004), and accompanying *Issues and Decision Memorandum (CVP-23 Final Determination)*, at “Pre-Shipment Export Financing.” See also *Notice of Final Affirmative Countervailing Duty Determination: Polyethylene Terephthalate Film, Sheet and Strip (PET Film) From India*, 67 FR 34905 (May 16, 2002), and accompanying *Issues and Decision Memorandum (PET Film Final Determination)*, at “Pre-Shipment and Post-Shipment Financing.” There is no new information or evidence of changed circumstances that would warrant reconsidering this finding. Therefore, we continue to find these programs countervailable.

In this review, Alpanil reported that it did not receive any loans under the post-shipment export financing program that were outstanding in the POR. Therefore, for purposes of the preliminary results, we find that Alpanil did not use the post-shipment export financing program. Furthermore, Alpanil reported that it did not use these programs with respect to sales destined to the United States. See Alpanil’s questionnaire response dated April 8, 2009 at page 11. Alpanil explained that its pre-shipment export financing was tied to specific export orders and is repaid with either post-shipment export financing or export proceeds, whichever is received earlier. Further, Alpanil stated that the loans granted were provided at Alpanil’s request to the bank by letter supported by the specific export order, based on which it was able to identify the market and, that the program was not used with respect to its sales destined for the United States. See Alpanil’s supplemental questionnaire response dated June 2, 2009 at pages 3 and 4.

Although in the original investigation Alpanil was able to demonstrate that none of its pre-shipment loans were provided for exports to the United States,<sup>2</sup> in the documentation Alpanil provided in the instant review it did not

demonstrate that the loans were only for shipments to countries other than the United States. The Department specifically asked Alpanil to tie its export orders on each borrowing during the POR and to identify the destination of the export sales. In response, Alpanil referred the Department to a sample document (“Form A,” containing details of the specific export order) that, according to Alpanil, contained the relevant information upon which the pre-shipment loan was released by the bank. However, this document pertained to only one specific loan out of more than sixty loans during the period of review. Alpanil did not provide information with regard to the remaining loans. Alpanil further stated that the spreadsheet it provided contained details showing how the loans were tied to a particular export sale; however, in our review of the spreadsheet, we did not find sufficient detail to identify the export destination for all of these loans to confirm whether the destination for these loans was not the United States. See Alpanil’s second supplemental response dated December 1, 2009 at pages 16, 18 and 19.

With regard to pre-shipment loans, the benefit conferred is the difference between the amount of interest the company paid on the government loan and the amount of interest it would have paid on a comparable commercial loan (*i.e.*, the short-term benchmark). Because Alpanil did not provide the information necessary to determine the markets for which the exports covered by the pre-shipment loans were destined, Alpanil did not demonstrate that these loans were tied to a particular market. We therefore find that the pre-shipment export loans reported by Alpanil are conferred on total exports and are not tied to particular markets. To calculate the benefit of the pre-shipment export loans, we compared the actual interest paid on the loans with the amount of interest that would have been paid at the benchmark interest rate for short term loans. See “Benchmark Interest Rates” section, above. Since the interest that would be due at the benchmark interest rate exceeded the actual interest paid monthly by Alpanil, a benefit was conferred. We summed the differences and divided the total benefit by Alpanil’s total exports during the POR. Accordingly, we preliminarily determine the net countervailable subsidy under the pre-shipment export financing program to be 0.80 percent *ad valorem* for Alpanil.

## 2. Duty Entitlement Passbook Scheme (DEPBS)

The DEPBS program enables exporting companies to earn import duty exemptions in the form of passbook credits rather than cash. All exporters are eligible to earn DEPBS credits on a post-export basis, provided that the GOI has established a Standard Input Output Norm (SION) for the exported product. DEPBS credits can be used to pay import duties for any subsequent imports, regardless of whether they are consumed in the production of an exported product. DEPBS credits are valid for twelve months and are transferable after the foreign exchange is realized from the export sales on which the DEPBS credits are earned. With respect to subject merchandise, the GOI has established a SION. See *CVP-23 Final Determination*, at “Duty Entitlement Passbook Scheme.” Therefore, CVP-23 exporters were eligible to earn DEPBS credits. Alpanil reported that the rate at which they earned DEPBS credits was 5 percent for the January 1 through March 31, 2007 period and 7 percent for the April 1 through December 31, 2007, period.

In the CVP-23 Final Determination, the Department determined that, under the DEPBS, a financial contribution, as defined under section 771(5)(D)(ii) of the Act, is provided because the GOI provides credits for the future payment of import duties; and that a benefit is conferred pursuant to section 771(5)(E) of the Act in the total amount of the credits earned because the GOI does not have in place and does not apply a system that is reasonable and effective for the purposes intended to confirm which inputs, and in what amounts, are consumed in the production of the exported products. Therefore, under section 351.519(a)(4) of the Department’s regulations and section 771(5)(E) of the Act, the entire amount of the credits earned during the POR constitutes a benefit. Finally, because this program is contingent upon export, it is specific under sections 771(5A)(A) and (B) of the Act. See *CVP-23 Final Determination*. See also *PET Film Final Determination*, at “DEPBS.” No new information or evidence of changed circumstances has been presented since our final determination in CVP-23 to warrant reconsideration of this finding. Therefore, we continue to find the DEPBS program countervailable.

In accordance with past practice and pursuant to 19 CFR § 351.519(b)(2), we continue to find that benefits from the DEPBS are conferred as of the date of exportation of the shipment for which

<sup>2</sup> See *CVP-23 Final Determination* at “Pre-Shipment Financing.” We note, however, that where a company is not able to demonstrate that its pre-shipment loans are tied to destinations other than the United States, we normally attribute all pre-shipment loans to total exports. See 19 CFR 351.525(b). See also *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*, 73 FR 7708 (February 11, 2008), and accompanying *Issues and Decision Memorandum (PET Film From India 2005 Review)* at “Pre- and Post-Shipment.”

the pertinent DEPBS credits are earned. We calculated the benefit on an “as-earned” basis upon export because DEPBS credits are provided as a percentage of the value of the exported merchandise on a shipment-by-shipment basis and, as such, it is at this point that recipients know the exact amount of the benefit (e.g., the available credits that amount to a duty exemption).

Alpanil reported and the GOI confirmed that Alpanil used this program during the POR. Alpanil reported that it received post-export credits on shipments of subject merchandise under the DEPBS program during the POR. Alpanil also reported that it paid required application fees for each DEPBS license associated with its export shipments made during the POR. We recognize that these fees provide an allowable offset to DEPBS benefits in accordance with section 771(6)(A) of the Act. Because DEPBS credits are earned on a shipment-by-shipment basis, we consider that the benefits are tied to particular products and markets, in accordance with 19 CFR 351.525(b)(5). As such, we measure the benefit by identifying all DEPBS credits granted on exports of subject merchandise to the United States during the POR. We calculated the subsidy rate by dividing the benefit (net of application fees) by total exports of subject merchandise to the United States during the POR. On this basis, we determine Alpanil’s countervailable subsidy from the DEPBS program to be 6.99 percent *ad valorem*.

#### **B. Programs Preliminarily Determined To Be Not Used**

We preliminarily determine that Alpanil did not apply for or receive benefits during the POR under the programs listed below:

1. Export Promotion Capital Goods Scheme (EPCGS).
2. Export Processing Zones (EPZs)/ Export Oriented Units (EOUs) Programs.
3. Income Tax Exemption Scheme (Sections 10A and 10B).
4. Market Development Assistance.
5. Special Imprest Licenses.
6. Duty Free Replenishment Certificate.
7. Advance License Scheme.
8. State of Gujarat (SOG) Sales Tax Incentive Scheme.
9. State of Maharashtra (SOM) Sales Tax Incentive Scheme.

#### **C. Programs Determined To Be Terminated**

##### *Income Tax Exemption Scheme 80 HHC*

In the CVP–23 Final Determination, the Department had determined that

deductions of profit derived from exports under section 80HHC of India’s Income Tax Act are countervailable. See *CVP–23 Final Determination*, at “Programs Determined to Confer Subsidies.” In this review, Alpanil states that the GOI has discontinued the income tax exemption scheme 80 HHC effective April 1, 2004. The GOI has reported that this scheme was available only up to March 31, 2004. In addition, Alpanil reported that this program has not been replaced by another program, and that there are no residual benefits accruing due to the exports of CVP–23 from India under this program. The Department found in another case that this program had been terminated effective March 31, 2004, and that no replacement program had been implemented. See *Polyethylene Terephthalate Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*, 72 FR 6530 (February 12, 2007), and accompanying *Issues and Decision Memorandum*, at “Income Tax Exemption Scheme 80HHC (80HHC).” There is no information on the record of this proceeding to contradict that determination. Therefore, pursuant to 19 CFR § 351.526(d) of the regulations, we find that this program has been terminated.

#### **Preliminary Results of Review**

In accordance with 19 CFR 351.221(b)(4)(i), we have calculated an individual subsidy rate for Alpanil for the POR. We preliminarily determine the total countervailable subsidy to be 7.79 percent *ad valorem* for Alpanil.

#### **Cash Deposit Requirements**

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the company listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent, and therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or in the original countervailing duty investigation, but the manufacturer is, the cash deposit rate will be the rate

established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 20.55 percent *ad valorem*, the all-others rate from the final determination in the CVD investigation. See *Final Affirmative Countervailing Duty Determination: Carbazole Violet Pigment 23 From India*, 69 FR at 67321. These cash deposit requirements, when imposed, shall remain in effect until further notice.

#### **Assessment Rates**

Upon publication of the final results of this review, the Department shall determine, and Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(2), the Department will instruct CBP to assess countervailing duties by applying the rates included in the final results of the review to the entered value of the merchandise. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after the date of publication of the final results of this review.

#### **Disclosure and Public Hearing**

We plan on disclosing the calculations from our preliminary results to parties to this segment of the proceeding within five days of the public announcement of this notice. See 19 CFR 351.224(b). Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, within 30 days of the date of publication of this notice. See 19 CFR 351.310(c). Requests should contain: (1) The party’s name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed.

Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. The Department will notify interested parties of the deadlines for submitting case and rebuttal briefs. Parties who submit arguments in this proceeding are requested to submit with the argument: (1) A statement of the issues; (2) a brief summary of the argument; and (3) a table of authorities cited. Case and rebuttal briefs must be served on interested parties, in accordance with 19 CFR 351.303(f).

Unless extended, the Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120

days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

These preliminary results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(4).

Dated: December 31, 2009.

**Susan H. Kuhbach,**

*Acting Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-904]

#### **Certain Activated Carbon From the People's Republic of China: Notice of Rescission of Changed Circumstances Review**

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

**DATES:** *Effective Date:* January 7, 2010.

**SUMMARY:** On January 29, 2009, the Department of Commerce ("Department") published a notice of initiation and preliminary results of changed circumstance review ("CCR") of the antidumping duty order on certain activated carbon from the People's Republic of China ("PRC"). *See Certain Activated Carbon From the People's Republic of China: Notice of Initiation and Preliminary Results of Changed Circumstances Review, and Intend To Revoke Order in Part*, 74 FR 4736 (January 29, 2009) ("*Initiation and Preliminary Results*"). We are now rescinding this CCR because the Department, on December 7, 2009, resolved the underlying issue for the CCR in a parallel final scope ruling on the same matter.

**FOR FURTHER INFORMATION CONTACT:** Jerry Huang, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230; telephone: 202-482-4047.

#### **Background**

On November 14, 2008, the Department received a letter from Rolf C. Hagen (USA), Corp. ("Hagen") requesting a scope ruling that certain fish tank filter products imported by Hagen, that contain no more than 500 grams of activated carbon or a combination of activated carbon and zeolite, are outside the scope of the antidumping order on certain activated

carbon from the PRC. *See Notice of Antidumping Duty Order: Certain Activated Carbon from the People's Republic of China*, 72 FR 20988 (April 27, 2007) ("*Order*"). On November 20, 2008, Calgon Carbon Corporation and Norit Americas Inc. (collectively, "Petitioners") submitted comments stating that they agreed with Hagen's scope ruling request. On December 15, 2008, the Department received a request from Hagen for a changed circumstance review and for the Department to revoke, in part, the *Order* pursuant to sections 751(b)(1) and 782(h)(2) of the Tariff Act of 1930, as amended ("the Act"), with respect to the same products covered by its scope request. On December 17, 2008, Petitioners again submitted comments stating that they agreed with the specific proposed exclusion language contained in Hagen's December 15, 2008, submission. The Department published the *Initiation and Preliminary Results* on January 29, 2009, and requested public comments on the proposed exclusion language. The Department also extended the deadline for the final results of this CCR. *See Certain Activated Carbon From the People's Republic of China: Extension of Time Limit for the Final Results of Changed Circumstances Review*, 74 FR 51257 (October 6, 2009).

On December 7, 2009, based on the Department's review of Hagen's scope request, in light of the scope language in the *Order*, the petition, and the ITC determination, the Department determined in accordance with 19 CFR 351.225(k)(1) that the commercial fish tank filter products described in the Hagen scope request are different from activated carbon which is covered by the scope of the *Order*. Because we determined the scope language to be dispositive, the Department found the fish tank filter products described in Hagen's request to be outside the scope of the *Order* pursuant to the criteria within 19 CFR 351.225(k)(1). *See Memorandum for John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, from Jerry Huang, International Trade Compliance Analyst, regarding "Final Scope Ruling: Antidumping Duty Order on Certain Activated Carbon from the People's Republic of China," dated December 7, 2009 ("Final Scope Ruling").*

#### **Scope of Changed Circumstances Review**

The merchandise subject to this order is certain activated carbon. Certain activated carbon is a powdered, granular, or pelletized carbon product obtained by "activating" with heat and

steam various materials containing carbon, including but not limited to coal (including bituminous, lignite, and anthracite), wood, coconut shells, olive stones, and peat. The thermal and steam treatments remove organic materials and create an internal pore structure in the carbon material. The producer can also use carbon dioxide gas (CO<sub>2</sub>) in place of steam in this process. The vast majority of the internal porosity developed during the high temperature steam (or CO<sub>2</sub> gas) activated process is a direct result of oxidation of a portion of the solid carbon atoms in the raw material, converting them into a gaseous form of carbon.

The scope of this order covers all forms of activated carbon that are activated by steam or CO<sub>2</sub>, regardless of the raw material, grade, mixture, additives, further washing or post-activation chemical treatment (chemical or water washing, chemical impregnation or other treatment), or product form. Unless specifically excluded, the scope of this order covers all physical forms of certain activated carbon, including powdered activated carbon ("PAC"), granular activated carbon ("GAC"), and pelletized activated carbon.

Excluded from the scope of the order are chemically activated carbons. The carbon-based raw material used in the chemical activation process is treated with a strong chemical agent, including but not limited to phosphoric acid, zinc chloride sulfuric acid or potassium hydroxide, that dehydrates molecules in the raw material, and results in the formation of water that is removed from the raw material by moderate heat treatment. The activated carbon created by chemical activation has internal porosity developed primarily due to the action of the chemical dehydration agent. Chemically activated carbons are typically used to activate raw materials with a lignocellulosic component such as cellulose, including wood, sawdust, paper mill waste and peat.

To the extent that an imported activated carbon product is a blend of steam and chemically activated carbons, products containing 50 percent or more steam (or CO<sub>2</sub> gas) activated carbons are within this scope, and those containing more than 50 percent chemically activated carbons are outside this scope. This exclusion language regarding blended material applies *only* to mixtures of steam and chemically activated carbons.

Also excluded from the scope are reactivated carbons. Reactivated carbons are previously used activated carbons that have had adsorbed materials removed from their pore structure after