

(Liaocheng) Foodstuff Co., Ltd., but exported by any party other than Ayecue International SLU, the cash deposit rate will be the rate applicable to the exporter. These cash deposit requirements will remain in effect until further notice.

#### Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

#### Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/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 violation which is subject to sanction.

This new shipper review and notice are in accordance with sections 751(a)(2)(B) and 777(i)(1) of the Act and 19 CFR 351.214(h).

Dated: April 17, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

#### Appendix

##### List of Comments and Issues in the Issues and Decision Memorandum

Comment 1: Whether the Department Should Use Contemporaneous Financial Statement Data

[FR Doc. E8-8809 Filed 4-22-08; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### The Manufacturing Council: Meeting of the Manufacturing Council

**AGENCY:** International Trade Administration, U.S. Department of Commerce.

**ACTION:** Notice of an open meeting via teleconference.

**SUMMARY:** The Manufacturing Council will hold a meeting via teleconference to deliberate a draft recommendation to the Secretary of Commerce regarding Alternative Energy.

**DATES:** May 7, 2008.

*Time:* 11 a.m. EST.

*For the Conference Call-In Number and Further Information, Contact:* The Manufacturing Council Executive Secretariat, Room 4043, Washington, DC 20230 (Phone: 202-482-1369), or visit the Council's Web site at <http://www.manufacturing.gov/council>.

Dated: April 18, 2008.

**Kate Worthington,**

*Executive Secretary, The Manufacturing Council.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

(A-570-925)

#### Notice of Preliminary Determination of Sales at Less Than Fair Value: Sodium Nitrite from the People's Republic of China

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

**EFFECTIVE DATE:** April 23, 2008.

**SUMMARY:** The Department of Commerce (the Department) preliminarily determines that sodium nitrite from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated dumping margin is shown in the "Preliminary Determination" section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Magd Zalok, 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) 482-4162.

#### SUPPLEMENTARY INFORMATION:

##### Background

On November 8, 2007, the Department received petitions concerning imports of sodium nitrite from the PRC and the Federal Republic of Germany filed in proper form by General Chemical LLC (petitioner). The Department initiated antidumping duty investigations of sodium nitrite from the above-

mentioned countries on November 28, 2007. *See Sodium Nitrite from the Federal Republic of Germany and the People's Republic of China: Initiation of Antidumping Duty Investigations*, 72 FR 68563 (December 5, 2007) (*Initiation Notice*).

In the "Respondent Selection" section of the *Initiation Notice*, the Department stated that it intended to select respondents based on U.S. Customs and Border Protection (CBP) data. On the date of publication of the *Initiation Notice*, the Department released to parties under an Administrative Protective Order (APO), the CBP data obtained for respondent selection purposes. On December 12, 2007, the petitioner submitted comments regarding respondent selection, urging the Department to select as mandatory respondents, two PRC exporters who accounted for the majority of the sodium nitrite imported into the United States from the PRC during the period of investigation (POI). The Department did not receive any other comments from interested parties concerning respondent selection.

In order to identify the universe of potential respondents for purposes of this investigation, the Department analyzed information obtained from the petition, CBP, and its own research. The petition identified 92 exporters and producers of sodium nitrite from the PRC. The Department obtained public information for two exporters and/or producers of the subject merchandise that are identified in the CBP data, Qingdao Hengyuan Chemical Co., Ltd. (Qingdao), and Hualong Ammonium Nitrate Company Ltd. (Hualong). The Department determined that Qingdao and Hualong were the appropriate respondents in this investigation because they represent all publicly identified PRC exporters of subject merchandise during the POI. On December 31, 2007, the Department selected Qingdao and Hualong as mandatory respondents. *See Memorandum regarding "Identification of Respondents in the Antidumping Investigation of Sodium Nitrite from the People's Republic of China,"* dated December 31, 2007 (Respondent Selection Memorandum).

On December 26, 2007, the International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of sodium nitrite from Germany and the PRC. *See Sodium Nitrite from China and Germany*, 73 FR 2278 (January 14, 2008).

On January 3, 2008, the Department issued Sections A through D of its antidumping duty questionnaire to Qingdao and Hualong via DHL and FedEx express courier services. The tracking information obtained from DHL and FedEx indicates that Qingdao and Hualong received the Department's questionnaire on January 7 and 9, 2008, respectively. See Memorandum regarding "Lack of Response to the Department of Commerce's Questionnaire" dated February 25, 2008 at Attachment I (Lack of Response Memorandum). In the cover letter to the questionnaire, the Department requested that Qingdao and Hualong, as mandatory respondents, submit a response to Section A, and a combined response to sections C and D of the questionnaire, by January 24, 2008, and February 11, 2008, respectively. Further, on January 15, 2008, the Department issued a letter to both Qingdao and Hualong, instructing them to use, for reporting purposes, certain physical characteristics that were identified in an attachment to the letter. The tracking information that we obtained from FedEx and DHL indicates that Qingdao and Hualong received the letter on January 18 and 22, 2008, respectively. See Lack of Response Memorandum at Attachment II. Qingdao and Hualong failed to respond to the Department's questionnaire.

#### Period of Investigation

The POI is April 1, 2007, through September 30, 2007. See 19 CFR 351.204(b)(1).

#### Scope of the Investigation

The merchandise covered by this investigation is sodium nitrite in any form, at any purity level. In addition, the sodium nitrite covered by this investigation may or may not contain an anti-caking agent. Examples of names commonly used to reference sodium nitrite are nitrous acid, sodium salt, anti-rust, diazotizing salts, erinitrit, and filmerine. The chemical composition of sodium nitrite is  $\text{NaNO}_2$  and it is generally classified under subheading 2834.10.1000 of the Harmonized Tariff Schedule of the United States (HTSUS). The American Chemical Society Chemical Abstract Service (CAS) has assigned the name "sodium nitrite" to sodium nitrite. The CAS registry number is 7632-00-0.

While the HTSUS subheading, CAS registry number, and CAS name are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

#### Non-Market-Economy ("NME") Treatment

The Department considers the PRC to be an NME country. In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an NME country shall remain in effect until revoked by the administering authority. See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Preliminary Results of 2001-2002 Administrative Review and Partial Rescission of Review*, 68 FR 7500 (February 14, 2003) (unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 2001-2002 Administrative Review and Partial Rescission of Review*, 68 FR 70488 (December 18, 2003)). The Department has not revoked the PRC's status as an NME country. Therefore, in this preliminary determination, we have treated the PRC as an NME country and applied our NME methodology.

#### Separate Rates

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of merchandise subject to investigation involving an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Exporters must demonstrate the absence of both *de jure* and *de facto* government control over export activities, under a test developed by the Department and described in the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), and *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994).

No party filed separate rate information in this investigation. Absent separate rate information, the Department has presumed that all companies within the PRC, exporting the subject merchandise (including Qingdao and Hualong), are subject to government control and thus are part of the PRC-wide entity and should be assessed a single, China-wide, antidumping duty rate.

#### The PRC-Wide Entity – Use of Facts Available

Section 776(a)(2) of the Act provides that, (1) if an interested party withholds information requested by the administering authority, (2) fails to provide such information by the deadlines for submission of the information and in the form or manner requested, subject to subsections (c)(1) and (e) of section 782, (3) significantly impedes a proceeding under this title, or (4) provides such information but the information cannot be verified as provided in 782(i), the administering authority shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Section 782(d) of the Act provides that, if the administering authority determines that a response to a request for information does not comply with the request, the administering authority shall promptly inform the responding party and provide an opportunity to remedy the deficient submission. Section 782(e) of the Act states further that the Department shall not decline to consider submitted information if all of the following requirements are met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Because Qingdao and Hualong are part of the PRC-wide entity, and they withheld information that is required by the Department to calculate dumping margins, the Department has concluded that it is appropriate to base the PRC-wide entity's dumping margin on facts available, pursuant to section 776(a)(2)(A)-(C) of the Act.

#### Application of Adverse Inferences

According to section 776(b) of the Act, if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with requests for information, the Department may use an inference that is adverse to the interests of that party in selecting from the facts otherwise available. See, e.g., *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025-54026 (September 13, 2005); and *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and*

*Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794–55796 (August 30, 2002). It is the Department's practice to apply adverse inferences to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully. See, e.g., *id.* Furthermore, "affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference." See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27340 (May 19, 1997); see also *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382–83 (Fed. Cir. 2003); *Certain Polyester Staple Fiber from Korea: Final Results of the 2005–2006 Antidumping Duty Administrative Review*, 72 FR 69663, 69664 (December 10, 2007).

Although the Department's antidumping duty questionnaire stated that failure to comply with a request for information may result in the Department using "information that is adverse to your interest" in conducting its analysis, Qingdao and Hualong failed to respond to the questionnaire. This constitutes a failure to cooperate to the best of their abilities to comply with a request for information by the Department within the meaning of section 776(b) of the Act. Because these companies did not provide the information requested, section 782(d) and (e) of the Act are not applicable. Based on the above, the Department has preliminarily determined that the PRC-wide entity, which includes Qingdao and Hualong, failed to cooperate to the best of its ability and, therefore, in selecting from among the facts otherwise available, an adverse inference is warranted. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products From Japan*, 65 FR 42985, 42986 (July 12, 2000) (the Department applied total adverse facts available because the respondent failed to respond to the antidumping questionnaire).

#### **Selection of Information Used as Facts Available**

When the Department applies adverse facts available because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record. See also 19 CFR 351.308(c); Statement of Administrative Action Accompanying the Uruguay Round Agreements Act,

H.R. Rep. No. 103–316 at 868–71, (1994), reprinted in 1994 U.S.C.C.A.N. 4040, 4198–99. It is the Department's practice to use the highest rate from the petition in an investigation when a respondent fails to act to the best of its ability to provide the necessary information. See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Purified Carboxymethylcellulose From Finland*, 69 FR 77216, 77218–19 (December 27, 2004) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethylcellulose From Finland*, 70 FR 28279 (May 17, 2005)). Therefore, because an adverse inference is warranted, we have assigned the PRC-wide entity, including Qingdao and Hualong, a dumping margin of 190.74 percent, the highest margin from the petition, as revised by the Department. See *Initiation Notice* 72 FR at 68567.

When the Department relies upon secondary information, it must "to the extent practicable, corroborate that information from independent sources that are reasonably at [the Department's] disposal." See section 776(c) of the Act. To corroborate the initiation dumping margins for use as adverse facts available, to the extent appropriate, where information was available, we revisited our pre-initiation analysis of the adequacy and accuracy of the information in the petition. See *Initiation Checklist*. In our analysis, we examined evidence supporting the calculations in the petition to determine the probative value of the petition margins for use as an adverse facts available rate. We also examined the key elements of the export-price and normal-value calculations used in the petition to derive dumping margins. Further, we examined information in the petition, and its supplements, that came from various independent sources which corroborates key elements of the export-price and normal-value calculations that were used to derive the estimated dumping margins in the petition. See *Initiation Notice*. We received no comments as to the relevance or probative value of this information. Based on the foregoing, the Department has determined that the information provided by independent sources that was included in the petition, as revised by the Department, corroborates the 190.74 percent rate, to the extent practicable. Therefore, the Department finds that the rates derived from the petition for initiation purposes, are reliable for purposes of calculating a rate based on adverse inferences.

#### **Preliminary Determination**

The weighted-average dumping margin is as follows:

Manufacturer/exporter	Margin (percent)
China-Wide Rate .....	190.74

#### **Suspension of Liquidation**

In accordance with section 733(d)(2) of the Act, we are directing CBP to suspend liquidation of all entries of sodium nitrite from the PRC, as described in the "Scope of the Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average dumping margin indicated in the chart above. The suspension-of-liquidation will remain in effect until further notice.

#### **ITC Notification**

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary affirmative determination. Under section 735(b)(2) of the Act, if the Department's final determination is affirmative, the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of the subject merchandise, or sales (or the likelihood of sales) for importation of the subject merchandise within 45 days of our final determination.

#### **Public Comment**

Case briefs or other written comments on the preliminary determination may be submitted to the Assistant Secretary for Import Administration no later than 30 days after the date of publication of this preliminary determination. 19 CFR 351.309(c)(1)(i). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline for the submission of case briefs. 19 CFR 351.309(d)(1) and (2). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. *Id.* Executive summaries should be limited to five pages total, including footnotes. *Id.* Further, we request that parties submitting briefs and rebuttal briefs provide the Department with an electronic copy of the public version of such briefs.

In accordance with section 774 of the Act, the Department will hold a public hearing, if requested, to afford interested

parties an opportunity to comment on arguments raised in case and rebuttal briefs. If a request for a hearing is made in this investigation, the hearing will tentatively be held three days after the deadline for submitting rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone, the date, time, and location of the hearing 48 hours before the scheduled date. Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. 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 the issues to be discussed. At the hearing, oral presentations will be limited to issues raised in the briefs. *Id.*

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: April 16, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E8-8832 Filed 4-22-08; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

A-428-841

#### Notice of Preliminary Determination of Sales at Less Than Fair Value: Sodium Nitrite from the Federal Republic of Germany

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

**SUMMARY:** The U.S. Department of Commerce (the Department) preliminarily determines that sodium nitrite from the Federal Republic of Germany (Germany) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are listed in the "Preliminary Determination" section of this notice. Interested parties are invited to comment on this preliminary determination. We will make our final determination not later than 75 days after the date of the preliminary determination.

**EFFECTIVE DATE:** April 23, 2008.

**FOR FURTHER INFORMATION CONTACT:** Brian C. Smith or Gemal Brangman, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482 1766 or (202) 482 3773, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On November 28, 2007, the Department initiated the antidumping duty investigation of sodium nitrite from Germany. *See Sodium Nitrite from the Federal Republic of Germany and the People's Republic of China: Initiation of Antidumping Duty Investigations*, 72 FR 68563 (December 5, 2007) (*Initiation Notice*). The petitioner in this investigation is General Chemical LLC.

The Department set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*. *See Initiation Notice*, 72 FR at 68564. No parties submitted comments on the scope.

The Department also set aside a period of time for parties to raise issues regarding product characteristics and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*. *See Initiation Notice*, 72 FR at 68564. Interested parties submitted comments on this issue.

On December 21, 2007, we selected BASF AG (BASF), the largest producer/exporter of sodium nitrite from Germany during the period of investigation (POI), as the mandatory respondent in this proceeding. *See Memorandum to James Maeder, Director Office 2, from the Team, regarding "Antidumping Duty Investigation of Sodium Nitrite from the Federal Republic of Germany - Selection of Respondents for Individual Review,"* dated December 21, 2007.

On January 3, 2008, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of sodium nitrite from Germany and the People's Republic of China are materially injuring the U.S. industry and the ITC notified the Department of its findings. *See Sodium Nitrite From China and Germany, Case Numbers: 701-TA-453 (Preliminary) and 731-TA-1136-1137 (Preliminary)*, 72 FR 2278 (January 14, 2008).

We subsequently issued the antidumping questionnaire to BASF on

January 14, 2008. On January 28, 2008, BASF informed the Department that it would not respond to the Department's antidumping duty questionnaire.

#### Period of Investigation

The POI is October 1, 2006, through September 30, 2007.

#### Scope of the Investigation

The merchandise covered by this investigation is sodium nitrite in any form, at any purity level. In addition, the sodium nitrite covered by this investigation may or may not contain an anti-caking agent. Examples of names commonly used to reference sodium nitrite are nitrous acid, sodium salt, anti-rust, diazotizing salts, erinitrit, and filmerine. The chemical composition of sodium nitrite is NaNO<sub>2</sub> and it is generally classified under subheading 2834.10.1000 of the Harmonized Tariff Schedule of the United States (HTSUS). The American Chemical Society Chemical Abstract Service (CAS) has assigned the name "sodium nitrite" to sodium nitrite. The CAS registry number is 7632-00-0.

While the HTSUS subheading, CAS registry number, and CAS name are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

#### Use of Facts Otherwise Available

For the reasons discussed below, we determine that the use of adverse facts available (AFA) is appropriate for the preliminary determination with respect to the sole respondent in this investigation, BASF.

As noted in the "Supplementary Information" section above, BASF informed the Department that it would not respond to the Department's antidumping duty questionnaire. *See BASF's January 28, 2008, letter to the Department.* Section 776(a)(2) of the Act provides that, (1) if an interested party withholds information requested by the administering authority, (2) fails to provide such information by the deadlines for submission of the information and in the form or manner requested, subject to subsections (c)(1) and (e) of section 782, (3) significantly impedes a proceeding under this title, or (4) provides such information but the information cannot be verified as provided in 782(i), the administering authority shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Section 782(d) of the Act provides that, if the administering authority determines that a response to a request for information does not comply with the request, the