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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-985]

Xanthan Gum from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, Final Partial Rescission; 2014-2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (“the Department”) has conducted an administrative review of the antidumping duty order on xanthan gum from the People's Republic of China (“PRC”). For these final results, we have treated Neimenggu Fufeng Biotechnologies Co., Ltd. (a.k.a. Inner Mongolia Fufeng Biotechnologies Co., Ltd.)/Shandong Fufeng Fermentation Co., Ltd./Xinjiang Fufeng Biotechnologies Co., Ltd. (collectively, “Fufeng”), Deosen Biochemical Ltd./Deosen Biochemical (Ordos) Ltd. (collectively, “Deosen”), and A.H.A. International Co., Ltd. (“AHA”) as mandatory respondents. The period of review (“POR”) is July 01, 2014, through June 30, 2015. The Department published its *Preliminary Results* of review on August 15, 2016. We gave interested parties an opportunity to comment on the *Preliminary Results*, and based upon our analysis of the comments received, we have not made any changes to the dumping margin calculations for these final results of review.

DATES: Effective (INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*).

FOR FURTHER INFORMATION CONTACT: Patrick O'Connor, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0989.

SUPPLEMENTARY INFORMATION:

Background

The Department published its *Preliminary Results* on August 15, 2016.¹ On September 14, 2016, Inner Mongolia Jianlong Biochemical Co., Ltd. (“IMJ”), CP Kelco U.S., Inc. (“Petitioner”), and Deosen Biochemical (Ordos) Ltd., Deosen Biochemical Ltd. (collectively “Deosen”) and A.H.A. International Co., Ltd. (“AHA”) (collectively, “Deosen/AHA”) requested a hearing. Between September 14, 2016, and November 21, 2016, Archer Daniels Midland Company (“ADM”), Shanghai Smart Chemicals Co., Ltd. (“Shanghai Smart”), Neimenggu Fufeng Biotechnologies Co., Ltd. (*aka* Inner Mongolia Fufeng Biotechnologies Co., Ltd.)/Shandong Fufeng Fermentation Co., Ltd./ Xinjiang Fufeng Biotechnologies Co., Ltd. (“Fufeng”), Deosen/AHA, IMJ, and Petitioner submitted case briefs and rebuttal briefs.² On December 14, 2016, the Department held a hearing for interested parties. On December 8, 2016, January 10, 2017, and January 25, 2017, the Department extended the deadline for issuing the final results of this administrative review.³

¹ See *Xanthan Gum From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Determination of No Shipments, and Preliminary Partial Rescission of Antidumping Duty Administrative Review; 2014-2015*, 81 FR 54045 (August 15, 2016) (“*Preliminary Results*”), and accompanying Preliminary Decision Memorandum.

² Deosen/AHA submitted its case brief on September 14, 2016; however, because of filing deficiencies, Deosen/AHA refiled its case brief on November 21, 2016. See also Memorandum to the File, Re: “Xanthan Gum from the People’s Republic of China: Telephone Call to Alston & Bird LLP, Counsel for Deosen Biochemical Ltd. and A.H.A International Co., Ltd.,” dated November 14, 2016.

³ See Memorandum to Christian Marsh, Deputy Assistant Secretary for AD/CVD Operations, “2014-2015 Antidumping Duty Administrative Review of Xanthan Gum from the People’s Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review,” dated December 8, 2016; see also Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for AD/CVD Operations, “2014-2015 Antidumping Duty Administrative Review of Xanthan Gum from the People’s Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review,” dated January 10, 2017; see also Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for AD/CVD Operations, “2014-2015 Antidumping Duty Administrative Review of Xanthan Gum from the People’s Republic of China: Extension of Deadline for Final Results of Antidumping Duty Administrative Review,” dated January 25, 2017.

Scope of the Order

The scope of the order covers dry xanthan gum, whether or not coated or blended with other products. Further, xanthan gum is included in this order regardless of physical form, including, but not limited to, solutions, slurries, dry powders of any particle size, or unground fiber. Merchandise covered by the scope of this order is classified in the Harmonized Tariff Schedule of the United States at subheading 3913.90.20.⁴ Although this tariff classification is provided for convenience and customs purposes, the written description remains dispositive.

Analysis of Comments Received

We addressed all issues raised in the case and rebuttal briefs submitted by parties in this review in the Issues and Decision Memorandum, which is hereby adopted by this notice.

Appendix I to this notice provides a list of the issues which parties raised. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS"). ACCESS is available to registered users at <http://access.trade.gov> and it is available to all parties in the Central Records Unit of the main Department of Commerce building, room B8024. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at <http://enforcement.trade.gov/frn/>. The signed Issues and Decision Memorandum and the electronic version are identical in content.

Changes Since the *Preliminary Results*

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results*, we have made no changes since the preliminary results.

⁴ For the full text of the scope of the order, see Memorandum to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, "Xanthan Gum from the People's Republic of China: Issues and Decision Memorandum for the Final Results of the Second Antidumping Duty Administrative Review," ("Issues and Decision Memorandum"), dated concurrently with this notice.

Adverse Facts Available

In the *Preliminary Results*, the Department applied total adverse facts available (“AFA”) to Deosen and AHA and assigned these companies a rate of 154.07 percent, the highest rate on the record of the proceeding. The Department determined that these companies significantly impeded the proceeding, withheld information requested by the Department, and failed to cooperate by not acting to the best of their ability to comply with requests for information.⁵ As discussed in the Issues and Decision Memorandum, we continue to apply a dumping margin based on AFA to Deosen and AHA for these final results of review.⁶

Separate Rates

In the *Preliminary Results*, the Department found that Fufeng, Deosen, AHA, CP Kelco (Shandong) Biological Company Limited (“CP Kelco (Shandong)”) and Shanghai Smart, demonstrated their eligibility for a separate rate but that the non-individually examined respondent Hebei Xinhe Biochemical Co. Ltd., (“Hebei Xinhe”) did not demonstrate its eligibility for a separate rate because it failed to file a separate rate application or a separate rate certification.⁷ Thus, the Department treated Hebei Xinhe as part of the PRC-wide entity. We have considered interested parties’ comments regarding our preliminary separate rates determination, and decided not to change the preliminary determination in these final results of review. We have considered interested parties’ comments regarding our preliminary separate rates determination, and decided to: (1) continue to grant Fufeng, Deosen, AHA, CP Kelco (Shandong), and Shanghai Smart separate rates status; and (2) continue to not grant IMJ separate rate status because it had no reviewable sales for these final results of review. For further details,

⁵ See PDM at 7-9.

⁶ See Issues and Decision Memorandum at Comment 1.

⁷ See *Preliminary Results*, 81 FR at 54046.

see the Issues and Decision Memorandum.⁸

Final Determination of No Shipments

In the *Preliminary Results*, the Department found that Meihua Group International Trading (Hong Kong) Limited, Langfang Meihua Bio-Technology Co., Ltd., and Xinjiang Meihua Amino Acid Co., Ltd. had no shipments and, therefore, no reviewable transactions during the POR.⁹ No parties commented on this determination. For the final results of review, we continue to find that these companies had no shipments during the POR.

Final Partial Rescission of Antidumping Duty Administrative Review

Because IMJ's one sale during the POR is the same sale found to be a non-*bona fide* sale in a new shipper review, and there are no other reviewable sales by IMJ during the POR, we have rescinded this review with respect to IMJ.¹⁰ For additional information regarding this determination, *see* the Issues and Decision Memorandum.¹¹

Dumping Margin for Non-Individually Examined Respondents Granted Separate Rate Status

Neither the Act, nor the Department's regulations, addresses the establishment of the dumping margin applied to separate rate companies not selected for individual examination where the Department limits its individual examination in an administrative review pursuant to section 777A(c)(2) of the Act. The Department's practice in administrative reviews involving limited selection based on exporters accounting for the largest volume of subject merchandise during the period of review has been to look to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others rate in an investigation. Under section

⁸ *See* Issues and Decision Memorandum at Comments 2 and 5.

⁹ *See* Preliminary Results at 8 FR 54045.

¹⁰ *See* Preliminary Results at 8 FR 54045 54046.

¹¹ *See* Issues and Decision Memorandum at Comment 4.

735(c)(5)(A) of the Act, the Department avoids calculating an all-others rate using rates that are zero, *de minimis*, or based entirely on facts available in investigations. Section 735(c)(5)(B) of the Act provides that, where all dumping margins established for the mandatory respondents are zero, *de minimis*, or based entirely on facts available, the Department may use “any reasonable method” for assigning an all-others rate.

In these final results of review, the dumping margins determined for the mandatory respondents are either zero, *de minimis*, or based entirely on AFA. Therefore, in accordance with section 735(c)(5)(B) of the Act, we have applied to the non-individually examined companies eligible for a separate rate a dumping margin equal to the simple average of the zero and AFA rates determined for the mandatory respondents.¹²

Final Results of Administrative Review

We determine that the following weighted-average dumping margins exist for the POR:

Exporter	Weighted-Average Dumping Margins (Percentage)
Neimenggu Fufeng Biotechnologies Co., Ltd. (aka Inner Mongolia Fufeng Biotechnologies Co., Ltd.)/Shandong Fufeng Fermentation Co., Ltd./Xinjiang Fufeng Biotechnologies Co., Ltd.	0.00
Deosen Biochemical Ltd./Deosen Biochemical (Ordos) Ltd.	154.07
A.H.A. International Co., Ltd.	154.07
CP Kelco (Shandong) Biological Company Limited	77.04
Shanghai Smart Chemicals Co., Ltd.	77.04

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department has determined, and U.S. Customs and Border Protection (“CBP”) shall assess, antidumping duties

¹² See Issues and Decision Memorandum at Comment 3.

on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. We intend to instruct CBP to liquidate POR entries of subject merchandise from Deosen, AHA, CP Kelco (Shandong), and Shanghai Smart at the rates listed for those companies in the table above. Where the respondent's weighted-average dumping margin is zero or *de minimis*, or where an importer- (or customer-) specific *ad valorem* or per-unit rate is zero or *de minimis*, the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.¹³

For entries that were not reported in the U.S. sales database submitted by an exporter individually examined during this review, but that entered under the case number of that exporter (*i.e.*, at the individually-examined exporter's cash deposit rate), the Department will instruct CBP to liquidate such entries at the PRC-wide rate (*i.e.*, 154.07 percent). Additionally, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number will be liquidated at the PRC-wide rate.

Cash Deposit Requirements

The following cash deposit requirements will be effective for shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of review, as provided for by section 751(a)(2)(C) of the Act: (1) for the exporters listed in the table above, the cash deposit rate will be the rate established in the final results of review that is listed for the exporter in the table; (2) for previously investigated or

¹³ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101, 8103 (February 14, 2012).

reviewed PRC and non-PRC exporters not listed in the table above that have separate rates, the cash deposit rate will continue to be the existing exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate previously established for the PRC-wide entity, which is 154.07 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. The cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the 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 Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification Regarding Administrative Protective Order ("APO")

This notice also serves as a reminder to parties subject to 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 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 violation which is subject to sanction.

We are issuing these final results of administrative review and publishing this notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: February 13, 2017

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

Appendix – Issues and Decision Memorandum

Summary

Background

Scope of the Order

Discussion of the Issues

Comment 1: Application of Adverse Facts Available for Deosen and AHA

Comment 2: Separate Rate Status of AHA

Comment 3: Separate Rate Margin Calculation

Comment 4: Separate Rate Status of IMJ

Comment 5: Separate Rate Status of Shanghai Smart

Comment 6: Adjustment of the Sodium Hypochlorite Surrogate Value

Comment 7: Surrogate Value for Ocean Freight

Comment 8: Surrogate Value for Electricity

Comment 9: New Factual Information in Deosen/AHA's Case Brief

Recommendation

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