



BILLING CODE 3510-DS-P

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; 2013-2014

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

SUMMARY: The Department of Commerce (“the Department”) is conducting 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. (aka 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 19, 2013, through June 30, 2014. The Department published its *Preliminary Results* on August 7, 2015 and issued post-preliminary results on August 5, 2016. We gave interested parties an opportunity to comment on the *Preliminary Results* and post-preliminary results, and based upon our analysis of the comments received, we made certain 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: Krishna Hill, 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) 482-4037.

SUPPLEMENTARY INFORMATION:

Background

The Department published its *Preliminary Results* on August 7, 2015.¹ On September 28, 2015, Fufeng and CP Kelco U.S., Inc. (“Petitioner”) requested a hearing. On October 22, 2015, both parties withdrew their hearing requests. Between October 6 - 15, 2015, Petitioner, Fufeng, and Deosen submitted case briefs and rebuttal briefs.² On February 9, 2016, the Department deferred the final results of this administrative review in order to address allegations made during the review relating to contradictory statements on the record and to protect the integrity of its administrative proceedings.³ Between March 21 and April 29, 2016, Deosen and AHA submitted supplemental questionnaire responses.⁴ The Department issued its Post-Preliminary Results on August 5, 2016.⁵ Between September 14 - 26, 2016, Petitioner, Shanghai

¹ See *Xanthan Gum from the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Preliminary Determination of No Shipments; 2013–2014*, 80 FR 47464 (August 7, 2015) (“*Preliminary Results*”), and accompanying Preliminary Decision Memorandum.

² See Letter from Petitioner, “Xanthan Gum from the People’s Republic of China: CP Kelco’s Case Brief,” dated October 6, 2015 (“Petitioner Case Brief”); Letter from Fufeng, “Fufeng Direct Case Brief in the First Administrative Review of Antidumping Duty Order on Xanthan Gum from the People’s Republic of China (A-570-985),” dated October 6, 2015 (“Fufeng Case Brief”); Letter from Deosen, “Xanthan Gum for the People’s Republic of China: Case Brief of Deosen Biochemical Ltd.,” dated October 6, 2015 (“Deosen Case Brief”). See also Letter from Petitioner, “Xanthan Gum from the People’s Republic of China: CP Kelco’s Rebuttal Brief,” dated October 15, 2015 (“Petitioner Rebuttal Brief”); Letter from Fufeng, “Fufeng Rebuttal Brief in the First Administrative Review of Antidumping Duty Order on Xanthan Gum from the People’s Republic of China (A-570-985),” dated October 15, 2015 (“Fufeng Rebuttal Brief”); Letter from Deosen, “Xanthan Gum from China; Rebuttal Brief of Deosen Biochemical Ltd. and Deosen USA Inc.,” dated October 15, 2015 (“Deosen Rebuttal Brief”).

³ See Memorandum to Paul Piquado, Assistant Secretary for Enforcement & Compliance, “Xanthan Gum from the People’s Republic of China: Deferral of the Final Results of the First Antidumping Duty Administrative Review,” dated February 9, 2016.

⁴ See Submission from Deosen and AHA, “Xanthan Gum from China: Response to Supplemental Questionnaire,” dated March 21, 2016; see also Submission from Deosen and AHA, “Xanthan Gum from China: Response to Second Deferral Supplemental Questionnaire,” dated April 29, 2016.

⁵ See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Post-Preliminary Results Memorandum: Application of Adverse Facts Available to Deosen Biochemical Ltd./Deosen Biochemical (Ordos) Ltd. and A.H.A. International Co., Ltd.,” dated August 5, 2016 (“Post-Preliminary Results”).

Smart Chemicals Co., Ltd. (“Shanghai Smart”), Deosen, and AHA, submitted supplemental case briefs, and Petitioner and Archer Daniels Midland Company submitted supplemental rebuttal briefs.⁶

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 3913.90.20.⁷ 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 and supplemental case and supplemental 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

⁶ See Letter from Petitioner to the Department, regarding “Xanthan Gum from the People’s Republic of China: CP Kelco U.S., Inc.’s Supplemental Case Brief,” dated September 14, 2016; see also Letter from Shanghai Smart to the Department, regarding “Xanthan Gum from the People’s Republic of China; Shanghai Smart Comments on the Calculation of the Separate Company Rates in the Post-Preliminary Results of the 1st Review and the Preliminary Results of the 2nd Administrative Review,” dated September 14, 2016, see also Letter from Deosen and AHA to the Department, regarding “Xanthan Gum from China: Supplemental Case Brief,” dated September 15, 2016; see also Letter from Petitioner to the Department, regarding “Xanthan Gum from the People’s Republic of China: CP Kelco U.S., Inc.’s Supplemental Rebuttal Brief,” dated September 26, 2016; see also Letter from ADM to the Department, regarding, “Xanthan Gum From The People’s Republic of China - Re: Supplemental Rebuttal Brief,” dated September 26, 2016.

⁷ 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 First Antidumping Duty Administrative Review,” (“Issues and Decision Memorandum”), dated concurrently with this notice.

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* and Post-Preliminary Results, and for the reasons explained in the Issues and Decision Memorandum, we revised our preliminary calculations of Fufeng's weighted-average dumping margin, we revised the dumping margin assigned to Deosen and AHA, and we revised the dumping margin assigned to the non-individually examined companies that demonstrated their eligibility for a separate rate. Specifically, we: (1) revised the surrogate value for labor; (2) revised the surrogate value for electricity; (3) revised the calculation of surrogate financial ratios; (4) adjusted Fufeng's free-on-board U.S. sales prices for value-added taxes; (5) recalculated Fufeng's electricity-generating factors of production allocated to finished xanthan gum; (6) recalculated the surrogate value for hydrochloric acid; (7) based the dumping margin for Deosen and AHA on total adverse facts available ("AFA"); (8) calculated the rate applicable to non-individually-examined respondents that are being granted separate rate status as the simple average of the dumping margins determined for mandatory respondents Fufeng, Deosen, and AHA, consistent with section 735(c)(5)(B) of the Tariff Act of 1930, as amended (the "Act"); and (9) denied Shanghai Smart separate rates status.⁸

⁸ See Issues and Decision Memorandum.

Adverse Facts Available

In the Post-Preliminary Results, the Department applied total 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.⁹ As discussed in the Issues and Decision Memorandum, we continue to assign Deosen and AHA a rate based on total AFA for these final results of review.¹⁰

Separate Rates

In the *Preliminary Results*, the Department found that Fufeng, Deosen, 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.¹¹ 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 to: (1) continue to grant Fufeng, Deosen, and CP Kelco (Shandong) separate rates status; (2) also grant AHA separate rates status; and (3) deny Hebei Xinhe and Shanghai Smart separate rates status in these final results of review. For further details, *see* the Issues and Decision Memorandum.¹²

⁹ See Post-Preliminary Results Memorandum

¹⁰ See Issues and Decision Memorandum at Comment 1.

¹¹ See *Preliminary Results*, 80 FR at 47464-47465.

¹² See Issues and Decision Memorandum at Comments 2 and 3.

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

Neither the Act, nor the Department's regulations address 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 antidumping investigation. Under section 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.¹³

¹³ See Issues and Decision Memorandum at Comment 4; see also *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Preliminary Results, Partial Rescission of Antidumping Duty Administrative Review, and Preliminary Rescission of New Shipper Review; 2014-2015*, 81 FR 45455 (July 14, 2016) and accompanying PDM at 9, unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, and Rescission of New Shipper Review; 2014-2015*, 82 FR 4844 (January 17, 2017).

Final Results of Administrative Review

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

Exporter	Weighted-Average Dumping Margin (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

Disclosure

The Department will disclose the calculations performed for these final results of review within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b).

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 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, and CP Kelco (Shandong) 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.¹⁴

¹⁴ 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).

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).

Cash Deposit Requirements

Except as noted below, 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 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.

However, if the final results of the antidumping duty administrative review of xanthan gum from the PRC covering the period July 1, 2014, through June 30, 2015 publish on or before the date of publication of the final results of the instant review,¹⁵ then the cash deposit rates will be those rates established in the final results of the antidumping duty administrative review of

¹⁵ As noted above, on February 9, 2016, the Department deferred the final results of the instant administrative review.

xanthan gum from the PRC covering the period July 1, 2014, through June 30, 2015. 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 Deosen and AHA

Comment 3: Separate Rate Status of Shanghai Smart Chemicals Co., Ltd.

Comment 4: Separate Rate Margin Calculation

Comment 5: Differential Pricing

A. Authority to Conduct Differential Pricing Analysis in Administrative Reviews

B. Use of Zeroing in Average-to-Transaction (“A-T”) Comparisons in Administrative Reviews

Comment 6: Surrogate Value for Labor

Comment 7: Surrogate Value for Domestic Truck Freight

Comment 8: Surrogate Value for Corn Consumed at Fufeng’s Neimenggu Fufeng Facility

Comment 9: Surrogate Value for Coal Consumed at Fufeng’s Neimenggu Fufeng and Xinjiang Fufeng Facilities

Comment 10: Surrogate Value for Electricity

Comment 11: Surrogate Value for Caustic Soda

Comment 12: Surrogate Value Adjustment for Sodium Hypochlorite

Comment 13: GTA POR Data

Comment 14: Employee Retirement Expenses in Thai Churos Co., Ltd.’s Financial Statements

Comment 15: Fufeng’s Value Added Tax Calculation

Comment 16: Fufeng’s Energy Allocations

Comment 17: Movement Expense for Fufeng’s Raw Xanthan Gum

Comment 18: Valuation of Deosen’s Compressed Air

Comment 19: Valuation of Deosen’s U.S. Inland Truck Freight

Comment 20: Alleged Calculation Errors for Deosen

A. Marine Insurance

B. AHA’s Sales Premium

C. Inland Freight

D. Coal Consumption

Recommendation

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