



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, Final Determination of No Shipments, and Partial Discontinuation of Antidumping Duty Administrative Review; 2016-2017

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

SUMMARY: The Department of Commerce (Commerce) determines that Meihua Group International Trading (Hong Kong) Limited, Langfang Meihua Biotechnology Co., Ltd., and Xinjiang Meihua Amino Acid Co., Ltd. (collectively, Meihua) did not make sales of subject merchandise below normal value. Furthermore, we have discontinued the review with respect to 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). The period of review (POR) is July 01, 2016, through June 30, 2017.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Eli Lovely or Aleksandras Nakutis, 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) 482-1593 and (202) 482-3147, respectively.

## SUPPLEMENTARY INFORMATION:

### Background

Commerce published its *Preliminary Results* on August 14, 2018.<sup>1</sup> Although Commerce calculated an antidumping duty margin for Fufeng in the *Preliminary Results*, we are discontinuing this review, with respect to Fufeng, as a result of the Court of International Trade's (CIT) final court decision in *CP Kelco US, Inc. v. United States*.<sup>2</sup> On September 20, 2018, Fufeng and Tate and Lyle submitted case briefs.<sup>3</sup> No other interested party filed comments.

### 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. Although this tariff classification is provided for convenience and customs purposes, the written description remains dispositive.<sup>4</sup>

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<sup>1</sup> See *Xanthan Gum from the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review, and Preliminary Determination of No Shipments; 2016-2017*, 83 FR 40229 (August 14, 2018) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

<sup>2</sup> See *CP Kelco US, Inc. v. United States*, Slip Op. 18-120 (CIT Sept. 17, 2018) (*CP Kelco US*); see also *Xanthan Gum from the People's Republic of China: Notice of Court Decision Not in Harmony With Amended Final Determination in Less Than Fair Value Investigation; Notice of Amended Final Determination Pursuant to Court Decision; Notice of Revocation of Antidumping Duty Order in Part; and Discontinuation of Fourth and Fifth Antidumping Duty Administrative Reviews in Part*, 83 FR 52205 (October 16, 2018) (*Xanthan Gum Timken*).

<sup>3</sup> See letter from Tate and Lyle, re: "Xanthan Gum from China – Tate & Lyle Case Brief," dated September 20, 2018; see also letter from Fufeng, re: "Fufeng Case Brief in the Fourth Administrative Review of Antidumping Duty Order on Xanthan Gum from the People's Republic of China (A-570-985)," dated September 20, 2018.

<sup>4</sup> For the full text of the scope of the order, see Memorandum, "Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review: Xanthan Gum from the People's Republic of China; 2016-2017," (Issues and Decision Memorandum), dated concurrently with this notice.

### Analysis of Comments Received

We addressed issues raised in the case briefs submitted by parties in this review in the Issues and Decision Memorandum, which is hereby adopted by this notice. As the review is being discontinued with respect to Fufeng, Commerce considers all issues raised concerning Fufeng moot and has not addressed them in the Issues and Decision Memorandum, with the exception of one issue raised. Appendix I to this notice provides the issue which parties raised, and that Commerce considered. 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*

As discussed above, we are discontinuing the review with respect to Fufeng. Because we are discontinuing the review with respect to Fufeng, the dumping margin assigned to separate-rate respondents has changed since the *Preliminary Results*.

### Separate Rates

In the *Preliminary Results*, we found that Fufeng, Meihua, CP Kelco (Shandong) Biological Company Limited (CP Kelco), Deosen Biochemical Ltd./Deosen Biochemical (Ordos) Ltd. (collectively Deosen), and Shanghai Smart Chemicals Co., Ltd. (Shanghai Smart) demonstrated their eligibility for a separate rate, but that the non-individually examined

respondent, Hebei Xinhe Biochemical Co., Ltd., did not demonstrate its eligibility for a separate rate because it failed to file a separate rate application or a separate rate certification.<sup>5</sup> Thus, Commerce treated Hebei Xinhe Biochemical Co., Ltd. as part of the China-wide entity. No parties commented on our preliminary separate rate determinations. For the final results of review, we have decided to continue to grant Meihua, CP Kelco, Deosen, and Shanghai Smart separate rates status. We are discontinuing the review with respect to Fufeng.

#### Final Determination of No Shipments

In the *Preliminary Results*, Commerce found that A.H.A. International Co., Ltd. (AHA), and Jianlong Biotechnology Co., Ltd. (Jianlong) (previously known as Inner Mongolia Jianlong Biochemical Co., Ltd. (IMJ)) had no shipments and, therefore, no reviewable transactions during the POR.<sup>6</sup> 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.

#### Partial Discontinuation of Antidumping Duty Administrative Review

On September 17, 2018, the CIT issued a final decision sustaining Commerce's remand redetermination wherein Fufeng's weighted-average dumping margin from the AD investigation of xanthan gum from the China changed from 8.69 percent to 0.00 percent.<sup>7</sup> As a result of the CIT's final court decision and Fufeng's exclusion from the AD order on xanthan gum from China, Commerce is discontinuing the review of Fufeng, during the pendency of the appeals

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<sup>5</sup> See *Preliminary Results*, 83 FR at 40230.

<sup>6</sup> *Id.*

<sup>7</sup> See *CP Kelco US*, 2018 WL 4469912, at \*2.

process, because Fufeng is no longer subject to the order.<sup>8</sup> The CIT's decision was appealed to the United States Court of Appeals for the Federal Circuit (CAFC) on November 7, 2018.<sup>9</sup>

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

The statute and Commerce's regulations do not address what rate to apply to respondents not selected for individual examination when Commerce limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, Commerce looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for non-selected respondents that are not examined individually in an administrative review. Section 735(c)(5)(A) of the Act states that the all-others rate should be calculated by averaging the weighted-average dumping margins for individually-examined respondents, excluding rates that are zero, *de minimis*, or based entirely on facts available. Where the rates for the individually examined companies are all zero, *de minimis*, or based entirely on facts available, section 735(c)(5)(B) of the Act provides that Commerce may use "any reasonable method" to establish the all others rate. Because we preliminarily calculated a weighted-average dumping margin for Meihua of zero percent, and we are discontinuing the review with respect to Fufeng, we assigned a dumping margin equal to zero percent to individual separate rate respondents not selected for examination, which is based solely on Meihua's weighted-average dumping margin of zero percent.

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<sup>8</sup> See *Xanthan Gum Timken* at 83 FR 52205.

<sup>9</sup> See CAFC Notice of Docketing, *CP Kelco US, Inc. v. United States*, Case No. 19-1207, dated November 15, 2018.

Final Results of Administrative Review

We determine that the following weighted-average dumping margin exists for the POR:

<b>Exporter</b>	<b>Weighted-Average Dumping Margins (Percentage)</b>
Meihua Group International Trading (Hong Kong) Limited/ Langfang Meihua Biotechnology Co., Ltd./Xinjiang Meihua Amino Acid Co., Ltd.	0.00
CP Kelco (Shandong) Biological Company Limited	0.00
Deosen Biochemical Ltd./Deosen Biochemical (Ordos) Ltd.	0.00
Shanghai Smart Chemicals Co., Ltd.	0.00

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), Commerce 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. Commerce 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 Meihua, CP Kelco (Shandong), Deosen, and Shanghai Smart without regard to antidumping duties.<sup>10</sup> Furthermore, in accordance with the *Xanthan Gum Timken*, we intend

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<sup>10</sup> 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).

to instruct CBP to continue to suspend POR entries of subject merchandise produced and exported by Fufeng at a rate of 0.00 percent during the pendency of the appeals process.<sup>11</sup>

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), Commerce will instruct CBP to liquidate such entries at the China-wide rate (*i.e.*, 154.07 percent).

Additionally, if Commerce 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 China-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 reviewed China and non-China 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 China 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 China-wide entity, which is 154.07 percent; and (4) for all non-China exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate

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<sup>11</sup> See *Xanthan Gum Timken* at 83 FR 52206.

applicable to the China exporter that supplied that non-China exporter. The cash deposit requirements, when imposed, shall remain in effect until further notice. Furthermore, in accordance with the *Xanthan Gum Timken*, we intend to instruct CBP to continue to suspend POR entries of subject merchandise, produced and exported by Fufeng, at a cash deposit rate of 0.00 percent during the pendency of the appeals process.<sup>12</sup>

#### 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 Commerce'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.

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<sup>12</sup> See *Xanthan Gum Timken* at 83 FR 52206.



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: December 12, 2018

Christian Marsh  
Deputy Assistant Secretary  
for Enforcement and Compliance

## **Appendix**

### **List of Topics Discussed in the Issues and Decision Memorandum**

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of Issue
  - A. Comment 1: Dumping Margin for Third-Country Exporters of Fufeng's Xanthan Gum

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