



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-580-889

Diocetyl Terephthalate from the Republic of Korea: Affirmative Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances, and Postponement of Final Determination

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

SUMMARY: The Department of Commerce (the “Department”) preliminarily determines that dioctyl terephthalate (“DOTP”) from the Republic of Korea (“Korea”) is being, or is likely to be, sold in the United States at less than fair value (“LTFV”). The period of investigation (“POI”) is April 1, 2015, through March 31, 2016. The estimated weighted-average dumping margins of sales at LTFV are shown in the “Preliminary Determination” section of this notice. Interested parties are invited to comment on this preliminary determination.

DATES: EFFECTIVE [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Shanah Lee, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Ave., NW Washington, DC 20230; telephone: (202) 482-4243 (202) 482-6386, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the notice of initiation of this investigation on July 28, 2016.¹ For a complete description of the events that followed the initiation of this investigation, see the memorandum that is dated concurrently with this determination and hereby adopted by this notice.² A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice.

The Preliminary Decision Memorandum is a public document and is made available to the public via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS"). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be found at <http://enforcement.trade.gov/frn/>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The product covered by this investigation is DOTP from Korea. For a full description of the scope of this investigation, *see* the "Scope of the Investigation," in Appendix I.

¹ *See Diocetyl Terephthalate from the Republic of Korea: Initiation of Less-Than-Fair-Value Investigation*, 81 FR 49628 (July 28, 2016) ("Initiation Notice").

² *See* Memorandum from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, "Decision Memorandum for the Preliminary Determination in the Antidumping Duty Investigation of Diocetyl Terephthalate from the Republic of Korea," dated concurrently with this notice ("Preliminary Decision Memorandum").

Scope Comments

In accordance with the preamble to the Department's regulations,³ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, “scope”).⁴ No interested party submitted comments on the scope of this investigation.

Methodology

The Department is conducting this investigation in accordance with section 731 of the Tariff Act of 1930, as amended (“the Act”). There are two mandatory respondents participating in this investigation: Aekyung Petrochemical Co., Ltd. (“AKP”) and LG Chem Ltd. (“LG Chem”). Export price and, where appropriate, constructed export price are calculated in accordance with section 772 of the Act. Normal value (“NV”) is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memorandum.

Negative Preliminary Determination of Critical Circumstances

On November 15, 2016, Eastman Chemical Company (“Petitioner”) filed a timely critical circumstances allegation, pursuant to section 733(e)(1) of the Act and 19 CFR 351.206(c)(1), alleging that critical circumstances exist with respect to imports of DOTP.⁵ In accordance with 19 CFR 351.206(c)(2)(i), when a critical circumstances allegation is submitted more than 20 days before the scheduled date of the preliminary determination, the Department must issue a preliminary finding whether there is a reasonable basis to believe or suspect that critical circumstances exist no later than the date of the preliminary determination. Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical

³ *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997).

⁴ *See Initiation Notice*, 81 FR at 49629.

⁵ *See* letter from Petitioner, “Re: Dioctyl Terephthalate from Korea; Critical Circumstances Allegation,” dated November 15, 2016 (“Critical Circumstances Allegation”).

circumstances exist in a LTFV investigation if there is a reasonable basis to believe or suspect that: (A) (i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (2) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and (B) there have been massive imports of the subject merchandise over a relatively short period. We have conducted an analysis of critical circumstances in accordance with section 733(e) of the Act and 19 CFR 351.206, and preliminarily determine that critical circumstances do not exist with regard to imports of DOTP from Korea. For a full description of this issue, see the Preliminary Decision Memorandum at the section, “Preliminary Determination of Critical Circumstances.”

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated “all-others” rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely under section 776 of the Act.

We calculated the all-others rate based on a weighted average of AKP and LG Chem’s publicly ranged total sales values.⁶

⁶ With two respondents, we normally calculate (A) a weighted-average of the dumping margins calculated for the mandatory respondents; (B) a simple average of the dumping margins calculated for the mandatory respondents; and (C) a weighted-average of the dumping margins calculated for the mandatory respondents using each company’s publicly-ranged values for the merchandise under consideration. We compare (B) and (C) to (A) and select the rate closest to (A) as the most appropriate rate for all other companies. *See Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Final Results of Changed-Circumstances Review, and Revocation of an Order in Part*, 75 FR 53661, 53663 (September 1, 2010).

Preliminary Determination

The Department preliminarily determines that DOTP from Korea is being, or is likely to be, sold in the United States at LTFV, pursuant to section 733 of the Act, and that the following estimated weighted-average dumping margins exist during the POI:

Exporter/Producer	Weighted-Average Dumping Margins (Percent)
Aekyung Petrochemical Co., Ltd.	3.96
LG Chem, Ltd.	5.75
All Others	4.47

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we will direct U.S. Customs and Border Protection (“CBP”) to suspend liquidation of all entries of DOTP from Korea as described in Appendix I of this notice, which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*.

Pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), we will instruct CBP to require a cash deposit equal to the weighted-average amount by which the NV exceeds U.S. price, as indicated in the chart above, as follows: (1) the rate for the mandatory respondents listed above will be the respondent-specific rates we determined in this preliminary determination; (2) if the exporter is not a mandatory respondent identified above, but the producer is, the rate will be the specific rate established for the producer of the subject merchandise; and (3) the rate for all other producers or exporters will be the all-others rate. These suspension-of-liquidation instructions will remain in effect until further notice.

Disclosure

We intend to disclose the calculations performed to interested parties in this proceeding within five days of the public announcement of this preliminary determination in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i) of the Act, we intend to verify information relied upon in making our final determination.

Public Comment

Interested parties are invited to comment on this preliminary determination. Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.⁷ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), 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.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW,

⁷ See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

All documents must be filed electronically using ACCESS. An electronically-filed request must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by Petitioners. 19 CFR 351.210(e)(2) requires that requests by respondents for postponement of a final antidumping determination be accompanied by a request for extension of provisional measures from a four-month period to a period not more than six months in duration.

On January 10, 2017, pursuant to 19 CFR 351.210(e), LG Chem, Ltd. requested that, contingent upon an affirmative preliminary determination of sales at LTFV for the respondents, the Department postpone the final determination and that provisional measures be extended from a four-month period to a period not to exceed six months.⁸

In accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination is affirmative; (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise; and (3) no compelling reasons for denial exist, we are postponing the final determination and extending the provisional measures from a four-month period to a period not greater than six months. Accordingly, we will make

⁸ See Letter from LG Chem, Ltd. "LG Chem's Request for Extension of Final Determination and Provisional Measures," dated January 10, 2017.

our final determination no later than 135 days after the date of publication of this preliminary determination, pursuant to section 735(a)(2) of the Act.

International Trade Commission (“ITC”) Notification

In accordance with section 733(f) of the Act, we are notifying the ITC of our affirmative preliminary determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.⁹

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

January 26, 2017

Date

⁹ See section 735(b)(2) of the Act.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is dioctyl terephthalate (“DOTP”), regardless of form. DOTP that has been blended with other products is included within this scope when such blends include constituent parts that have not been chemically reacted with each other to produce a different product. For such blends, only the DOTP component of the mixture is covered by the scope of this investigation.

DOTP that is otherwise subject to this investigation is not excluded when commingled with DOTP from sources not subject to this investigation. Commingled refers to the mixing of subject and non-subject DOTP. Only the subject component of such commingled products is covered by the scope of the investigation.

DOTP has the general chemical formulation $C_6H_4(C_8H_{17}COO)_2$ and a chemical name of “bis (2-ethylhexyl) terephthalate” and has a Chemical Abstract Service (“CAS”) registry number of 6422-86-2. Regardless of the label, all DOTP is covered by this investigation.

Subject merchandise is currently classified under subheading 2917.39.2000 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Subject merchandise may also enter under subheadings 2917.39.7000 or 3812.20.1000 of the HTSUS. While the CAS registry number and HTSUS classification are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum:

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- II. Background
- III. Period of Investigation
- IV. Postponement of Final Determination and Extension of Provisional Measures
- V. Scope Comments
- VI. Selection of Respondents
- VII. Preliminary Determination of Critical Circumstances
- VIII. Discussion of Methodology
 - A. Determination of the Comparison Period
 - B. Results of the Differential Pricing Analysis
- IX. Product Comparisons
- X. Date of Sale
- XI. U.S. Price
 - A. Export Price
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 - C. Duty Drawback
- XII. Normal Value
 - A. Comparison Mark Viability
 - B. Affiliated-Party Transactions and Arm's-Length Test
 - C. Level of Trade
 - D. COP Analysis
 - E. Calculation of NV Based on Comparison Market Prices
- XIII. Currency Conversion
- XIV. Conclusion

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