

**DEPARTMENT OF AGRICULTURE****Forest Service****Siskiyou County Resource Advisory Committee**

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Siskiyou County Resource Advisory Committee will meet in Yreka, California, June 16, 2003. The meeting will include routine business and discussion, review, and recommendation of submitted project proposals.

**DATES:** The meeting will be held June 16, 2003, from 4 p.m. until 8 p.m.

**ADDRESSES:** The meeting will be held at the Yreka High School Library, Preece Way, Yreka, California.

**FOR FURTHER INFORMATION CONTACT:** Don Hall, RAC Coordinator, Klamath National Forest, (530) 841-4468 or electronically at [donaldhall@fs.fed.us](mailto:donaldhall@fs.fed.us).

**SUPPLEMENTARY INFORMATION:** The meeting is open to the public. Public comment opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: June 3, 2003.

**Margaret J. Boland,**

*Designated Federal Official.*

[FR Doc. 03-14520 Filed 6-9-03; 8:45 am]

**BILLING CODE** 3410-11-M

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-570-885, A-533-834, A-428-838]

**Notice of Initiation of Antidumping Duty Investigations: 4,4'-Diamino-2,2'-Stilbenedisulfonic Acid (DAS) and Stilbenic Fluorescent Whitening Agents (SFWA) from Germany, India, and the People's Republic of China**

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

**ACTION:** Initiation of Antidumping Duty Investigations.

**EFFECTIVE DATE:** June 10, 2003.

**FOR FURTHER INFORMATION CONTACT:** David Layton at (202) 482-0371, AD/CVD Enforcement Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:**

**Initiation of Investigations:****The Petitions**

On May 14, 2003, the Department received petitions filed in proper form by Ciba Specialty Chemicals Corporation (Ciba or petitioner). The Department received supplemental information to the petitions from Ciba on May 27, 2003 and May 30, 2003.

In accordance with section 732(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that imports of 4,4'-Diamino-2,2'-stilbenedisulfonic acid (DAS) and stilbenic fluorescent whitening agents (SFWA) from Germany, India, and the People's Republic of China (PRC) are, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that imports from Germany, India, and the PRC are materially injuring, or are threatening to materially injure an industry in the United States.

The Department finds that the petitioner filed these petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to each of the antidumping investigations that it is requesting the Department to initiate. *See infra*, "Determination of Industry Support for the Petitions."

**Period of Investigation**

The anticipated period of investigation (POI) for Germany and India is April 1, 2002, through March 31, 2003; and October 1, 2002, through March 31, 2003 for the PRC.

**Scope of Investigations**

These investigations cover 4,4'-diamino-2,2'-stilbenedisulfonic acid (DAS) and stilbenic fluorescent whitening agents (SFWA). DAS is a chemical compound used to produce SFWA. SFWA are synthetic organic products normally used as fluorescent brightening agents in the production of certain textiles, paper, and detergent. These investigations cover all DAS and SFWA regardless of end use.

DAS is currently classifiable under subheading 2921.59.2000 of the Harmonized Tariff Schedule of the United States (HTSUS). This tariff classification only covers DAS. SFWA is currently classifiable under subheading 3204.20.80 of the HTSUS. This tariff classification represents a basket category which includes SFWA and other synthetic organic coloring matter. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the

merchandise under investigation is dispositive.

During our review of the petitions, we sought additional information from the petitioner concerning the scope of the investigations. As a result of this supplemental information, we modified the scope language proposed by the petitioner with regard to the name of the subject merchandise and the description of the products covered.<sup>1</sup>

As discussed in the preamble to the Department's regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 calendar days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determinations.

**Determination of Industry Support for the Petitions**

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that the Department's industry support determination, which is to be made before the initiation of the investigation, be based on whether a minimum percentage of the relevant industry supports the petition. A petition satisfies this requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall either poll the industry or rely on other information in order to determine if there is support for the petition.

Section 771(4)(A) of the Act defines the "industry" as the producers of a

<sup>1</sup> See Memorandum to the File Re: Change to Scope Description (June 3, 2003).

domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.<sup>2</sup>

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

In this case, the petitions cover a single class or kind of merchandise, DAS and its commercial agent SFWA as defined in the "Scope of Investigations" section, above. The petitioner does not offer a definition of domestic like product distinct from the scope of the investigations. Thus, based on our analysis of the information presented to the Department by the petitioner and interested parties, we have determined that there is a single domestic like product which is consistent with the definition of the "Scope of the Investigation" section above and have analyzed industry support in terms of this domestic like product.

The Department has determined that, pursuant to section 732(c)(4)(A) of the Act, the petitions contain adequate evidence of industry support and, therefore, polling is unnecessary. *See* Office of AD Enforcement, Initiation Checklist: 4,4'-diamino-2,2'-stilbenedisulfonic acid (DAS) and stilbenic fluorescent whitening agents

(SFWA) from Germany, India, and the People's Republic of China (June 3, 2003) (the Initiation Checklist) at attachment II (on file in the Central Records Unit, Room B-099 of the Department of Commerce).

On May 30, 2003, Bayer Chemicals Corporation (Bayer) submitted an argument in opposition to the petition, and on June 3, 2003, 3V Inc. also submitted an argument in opposition to the petition. However, neither party provided sufficient evidence that would call into question the sufficiency of the petitioner's industry support. *See* Initiation Checklist at attachment II for further details. Therefore, the Department has determined, based on information provided in the petition, that the petitioner represents over 50 percent of total production of the domestic like product. The petitioner is the only U.S. producer of DAS and accounts for over 50 percent of U.S. production of SFWA; thus, Ciba satisfies the requirements of section 732(c)(4)(A)(i) of the Act because it accounts for at least 25 percent of the total production of the domestic like product. Furthermore, the requirements of section 732(c)(4)(A)(ii) of the act are also met. Accordingly, we determine that these petitions are filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. *See* the "Injury Allegation" section in the Initiation Checklist.

#### Initiation Standard for Cost Investigations

Pursuant to section 773(b) of the Act, the petitioner provided information demonstrating reasonable grounds to believe or suspect that sales in the home market of India were made at prices below the cost of production (COP) and, accordingly, requested that the Department conduct a country-wide sales-below-COP investigation in connection with this investigation. The Statement of Administrative Action (SAA), submitted to the Congress in connection with the interpretation and application of the Uruguay Round Agreements Act (URAA), states that an allegation of sales below COP need not be specific to individual exporters or producers. The SAA states that "Commerce will consider allegations of below-cost sales in the aggregate for a foreign country, just as Commerce currently considers allegations of sales at less than fair value on a country-wide basis for purposes of initiating an antidumping investigation." SAA, H.R. Doc. No. 103-316 at 833 (1994). Further, the SAA provides that section 773(b)(2)(A) of the Act retains the requirement that before initiating such

an investigation the Department have "reasonable grounds to believe or suspect" that below-cost sales have occurred. Reasonable grounds exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the foreign market in question are at below-cost prices. We have analyzed the country-specific allegation as described below for India. Based on our analysis, we found reasonable grounds to believe or suspect that sales of DAS and SFWA in India were made at prices below cost. *See* the "Normal Value" section for India, below.

#### Export Price and Normal Value

The following are descriptions of the allegations of sales at less than fair value upon which the Department based its decision to initiate these investigations. The sources of data for the deductions and adjustments relating to U.S. and home market prices, and constructed value (CV) are discussed in greater detail in the Initiation Checklist. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we may re-examine the information and revise the margin calculations, if appropriate.

#### Germany

##### Export Price

The petitioner based export price (EP) on average unit values of DAS imports from Germany during the POI. The petitioner derived such values from import statistics under the HTSUS subheading 2921.59.2000. *See* Initiation Checklist for further information.

##### Normal Value

With respect to normal value (NV), the petitioner calculated COM based on the production costs of a German DAS manufacturer, Ciba Spezialitatenschemie Grenzach GmbH, that is affiliated with the petitioner, because home market prices and information related to third country sales were unavailable during the fiscal year 2002. To calculate selling, general and administrative expenses (SG&A) and profit, the petitioner relied on amounts reported in the consolidated financial statements for the 2002 fiscal year of Bayer AG, a German producer of DAS. We relied on the cost data contained in the petition except in the following instances.

1. We recalculated the selling, general and administrative (SG&A) expenses amount per pound of DAS exclusive of

<sup>2</sup> *See* Algoma Steel Corp. Ltd., v. United States, 688 F. Supp. 639, 642-44 (CIT 1988); High Information Content Flat Panel Displays and Display Glass from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition, 56 FR 32376, 32380-81 (July 16, 1991).

movement and import duty expenses. First, we calculated the SG&A rate based on the amounts reported in the unconsolidated financial statements for the 2002 fiscal year of Bayer AG. Second, we applied this SG&A rate to the reported cost of manufacture (COM). Finally, we deducted the amounts contained in the petition for shipping cost from German port to U.S. port, and U.S. import duty from the calculated SG&A amount per pound of DAS because the selling amount contained in the unconsolidated financial statements may include the movement and duty expenses.

2. We recalculated the financial expense amount per pound of DAS. We calculated the financial expense rate based on the amounts reported in the consolidated financial statements for the 2002 fiscal year of Bayer AG. and applied this financial expense rate to the reported COM.

3. We calculated the profit amount per pound of DAS. We calculated the profit rate as a percentage of cost of goods sold and SG&A amounts reported in the unconsolidated financial statements for the 2002 fiscal year of Bayer AG because these unconsolidated financial statements did not itemize the financial expenses, but included them in the basket of non-operating expenses. Therefore, we applied this profit rate to the reported COM and the SG&A expense amount inclusive of shipping cost from German port to U.S. port, and U.S. import duty.

4. We recalculated the CV by adding the reported COM to the calculated SG&A, financial expense, and profit amounts as discussed above.

The estimated dumping margins for subject merchandise from Germany, based on a comparison between the U.S. prices and adjusted CV is 194.9 percent. India

#### *Export Price*

The petitioner based EP on average unit values of DAS imports from India during the POI. The petitioner derived such values from import statistics under the HTSUS subheading 2921.59.2000.

#### *Normal Value*

With respect to NV, the petitioner provided a home market price for DAS using a price quote obtained from its joint venture in India. This price was quoted in U.S. dollars, FOB Hyderabad.

The petitioner has provided information demonstrating reasonable grounds to believe or suspect that sales of DAS in the home market were made at prices below the fully absorbed COP, within the meaning of section 773(b) of the Act, and requested that the

Department conduct a country-wide sales-below-cost investigation. Pursuant to section 773(b)(3) of the Act, COP consists of the COM, SG&A expenses, financial expenses, and packing expenses.

The petitioner calculated COM based on its own production experience, adjusted for known differences between costs incurred to produce DAS in the United States and in India using publicly available data. For one particular raw material, oleum, we noted that the cost was based on amounts purchased from two countries. In order to be conservative in using this estimated cost, we recalculated the oleum costs based on the lower per-unit purchase price. In addition, we also corrected a mathematical error for the cost of another raw material element.

To calculate overhead and SG&A expenses, the petitioner relied upon amounts reported in the 2001–2002 financial statements of an Indian chemical producer. The petitioner did not include packing costs in the CV calculation. Based upon a comparison of the prices of the foreign like product in the home market to the calculated COP of the product, we find reasonable grounds to believe or suspect that sales of the foreign like product were made below the COP, within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating a country-wide cost investigation.

Pursuant to sections 773(a)(4), 773(b) and 773(e) of the Act, the petitioner also based NV for sales in India on CV. The petitioner calculated CV using the same COM, overhead, and SG&A, and profit expense figures used to compute the Indian home market costs. Consistent with 773(e)(2) of the Act, the petitioner included in CV an amount for profit.

The estimated dumping margin for subject merchandise from India, based on a comparison of EP and home market price, is 35.7 percent. The estimated dumping margin for India based on a comparison between EP and CV is 139.61 percent.

#### **PRC**

##### *Export Price*

The petitioner based EP on average unit values of DAS imports from the PRC during the POI. The petitioner derived such values from import statistics under the HTSUS subheading 2921.59.2000.

##### *Normal Value*

With respect to NV, the petitioner provided CV based on Indian surrogate values and the petitioner's own

experience producing DAS (its factors of production), adjusted for any known differences between the petitioner's production process and the Chinese DAS production process. Where the petitioner was unable to obtain Indian surrogate values for material inputs, it used a value of zero for such inputs. We also adjusted the value of high pressure steam to zero due to the lack of an appropriate Indian surrogate value. Indian values were converted to U.S. dollars using the exchange rates from the Department's website. Where surrogate values were not contemporaneous with the POI, the petitioner adjusted such values using wholesale price indices from India. For SG&A expenses and profit, the petitioner relied upon amounts reported in the 2001 financial reports of Atul Ltd. (India) and Daurala Organics (India). The petitioner claims that said companies have similar costs to those of a producer of the subject merchandise because said companies produce chemicals similar to the subject merchandise.

The estimated dumping margin for the PRC, based on a comparison of EP and CV, is 156.69 percent.

#### **Fair Value Comparisons**

Based on the data provided by the petitioner, there is reason to believe that imports of DAS and SFWA from Germany, India, and the PRC are being, or are likely to be, sold at less than fair value.

#### **Allegations and Evidence of Material Injury and Causation**

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the cumulated imports from Germany, India, and the PRC of the subject merchandise sold at less than NV.

The petitioner contends that the industry's injured condition is evident in the declining trends in net operating profits, net sales volumes, domestic prices, revenue, profit-to-sales ratios, production employment, capacity utilization, and domestic market share. The allegations of injury and causation are supported by relevant evidence including U.S. import data, lost sales, and pricing information.

The Department assessed the allegations and supporting evidence regarding material injury and causation and determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. See the Initiation Checklist.

### Initiation of Antidumping Investigations

Based upon our examination of the petitions covering DAS and SFWA, we have found that they meet the requirements of section 732 of the Act. See the Initiation Checklist. Therefore, we are initiating antidumping duty investigations to determine whether imports of DAS and SFWA from Germany, India and the PRC are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended, we will make our preliminary determinations no later than 140 days after the date of these initiations.

### Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of each petition has been provided to the representatives of the governments of Germany, India, and the PRC. We will attempt to provide a copy of the public version of each petition to each exporter named in the petitions, as provided for under 19 CFR 351.203(c)(2).

### ITC Notification

We have notified the ITC of our initiations as required by section 732(d) of the Act.

### Preliminary Determinations by the ITC

The ITC will determine no later than June 30, 2003, whether there is a reasonable indication that imports of DAS and SFWA from Germany, India, and the PRC are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination for any country will result in the investigation being terminated with respect to that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: June 3, 2003.

**Joseph Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 03-14592 Filed 6-9-03; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-533-835]

### Notice of Initiation of Countervailing Duty Investigation: 4,4'-Diamino-2,2'-Stilbenedisulfonic Acid (DAS) and Stilbenic Fluorescent Whitening Agents (SFWA) from India

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

**EFFECTIVE DATE:** June 10, 2003.

**FOR FURTHER INFORMATION CONTACT:** Dana Mermelstein at (202) 482-1391, or Sean Carey (202) 482-3964; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

### SUPPLEMENTARY INFORMATION:

#### Initiation of Investigation

##### The Petition

On May 14, 2003, the Department of Commerce (the Department) received a petition filed in proper form by Ciba Specialty Chemicals Corp. (Ciba) (petitioner). See *4,4'-Diamino-2,2'-Stilbenedisulfonic Acid (DAS) Chemistry from the PRC, India, and Germany (Petition)*. The Department received information supplementing the petition, on May 27 and May 29, 2003. See *Response to the Department's Supplemental Questions Regarding the Countervailing Duty Investigations of Certain 4,4'-Diamino-2,2'-Stilbenedisulfonic Acid (DAS) Chemistry from the PRC, India, and Germany (May 27, 2003) (CVD Supplemental)* and *Response to Department's Supplemental Questions Regarding the Scope, Standing and Injury Portions of the Petition Regarding Certain 4,4'-Diamino-2,2'-Stilbenedisulfonic Acid (DAS) Chemistry from India (May 29, 2003) (Scope, Standing and Injury Supplemental)*.

In accordance with section 702(b)(1) of the Act, petitioner alleges that manufacturers, producers, or exporters of DAS and SFWA in India receive countervailable subsidies within the meaning of section 701 of the Act.

The Department finds that petitioner filed this petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and has demonstrated sufficient industry support with respect to the antidumping and countervailing duty investigations that it is requesting the Department to

initiate. See *Determination of Industry Support for the Petition*, below.

### Period of Investigation

In accordance with 19 CFR 351.204 (b)(2), the anticipated period of investigation (POI) is January 1, 2002, through December 31, 2002.

### Scope of Investigation

This investigation covers, 4,4'-diamino-2,2'-stilbenedisulfonic acid (DAS) and stilbenic fluorescent whitening agents (SFWA). DAS is a chemical compound used to produce SFWA. SFWA are synthetic organic products normally used as fluorescent brightening agents in the production of certain textiles, paper and detergent. This investigation covers all DAS and SFWA regardless of end use.

DAS is currently classifiable under subheading 2921.59.2000 of the Harmonized Tariff Schedule of the United States (HTSUS). This tariff classification only covers DAS. SFWA is currently classifiable under subheading 3204.20.80 of the HTSUS. This tariff classification represents a basket category which includes SFWA and other synthetic organic coloring matter. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

During our review of the petition, we sought additional information from the petitioner concerning the scope of the investigation. As a result of this supplemental information, we modified the scope language proposed by the petitioner with regard to the name of the subject merchandise and the description of the products covered.<sup>1</sup>

As discussed in the preamble to the Department's regulations, we are setting aside a time period for parties to raise issues regarding product coverage. See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997). The Department encourages all parties to submit such comments within 20 days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determination.

<sup>1</sup> See Memorandum to the File Re: Change to Scope Description (June 3, 2003).