

DEPARTMENT OF COMMERCE

International Trade Administration

[A-433-811, A-570-985]

Xanthan Gum From Austria and the People's Republic of China: Initiation of Antidumping Duty Investigations

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

DATES: *Effective Date:* July 2, 2012.

FOR FURTHER INFORMATION CONTACT: Karine Gziryan or Maisha Cryor at (202) 482-4081 or (202) 482-5831, respectively (Austria), AD/CVD Operations, Office 4; or Brandon Farlander or Erin Kearney at (202) 482-0182 or (202) 482-0167, respectively (the People's Republic of China (the "PRC")), AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

The Petitions

On June 5, 2012, the Department of Commerce (the "Department") received antidumping duty ("AD") petitions concerning imports of xanthan gum from Austria and the People's Republic of China ("PRC") filed in proper form by CP Kelco U.S. ("Petitioner").¹ Petitioner is a domestic producer of xanthan gum. On June 8, 2012, the Department requested additional information and clarification of certain areas of the Petitions. Petitioner filed responses to these requests on June 13, 2012 (hereinafter, "Supplement to the Austria Petition" and "Supplement to the PRC Petition"). Additionally, on June 13, 2012, Archer Daniels Midland, a domestic producer of xanthan gum,

submitted information regarding its 2011 production of xanthan gum (hereinafter, "ADM production letter"). On June 19, 2012, Petitioner submitted additional information regarding its constructed value surrogate financial ratios.

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the "Act"), Petitioner alleges that imports of xanthan gum from Austria and the PRC are being, 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 such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to Petitioner supporting its allegations.

The Department finds that 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 has demonstrated sufficient industry support with respect to the initiation of the AD investigations that Petitioner is requesting. See the "Determination of Industry Support for the Petitions" section below.

Period of Investigation

Because the Petitions were filed on June 5, 2012, the period of investigation ("POI") for the PRC investigation is October 1, 2011, through March 31, 2012. The POI for the Austria investigation is April 1, 2011, through March 31, 2012.²

Scope of the Investigations

The products covered by these investigations are xanthan gum from Austria and the PRC. For a full description of the scope of the investigations, see the "Scope of the Investigations," in Appendix I of this notice.

Comments on Scope of Investigations

During our review of the Petitions, we discussed the scope with Petitioner to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by July 16, 2012, 5:00 p.m.

Eastern Standard Time, 20 calendar days from the signature date of this notice. All comments must be filed on the records of the Austria and the PRC AD investigations. All comments and submissions to the Department must be filed electronically using Import Administration's Antidumping Countervailing Duty Centralized Electronic Service System (IA ACCESS).³ An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by the time and date noted above. Documents excepted from the electronic submission requirements must be filed manually (*i.e.*, in paper form) with Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, and stamped with the date and time of receipt by the deadline noted above.

The period of scope comments is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

Comments on Product Characteristics for Antidumping Questionnaires

The Department requests comments from interested parties regarding the appropriate physical characteristics of xanthan gum to be reported in response to the Department's AD questionnaires. This information will be used to identify the key physical characteristics of the merchandise under consideration in order to report the relevant factors and costs of production accurately as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as (1) general product characteristics and (2) the product-comparison criteria. We find that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products.

³ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011) for details of the Department's electronic filing requirements, which went into effect on August 5, 2011. Information on help using IAACCESS can be found at <https://iaaccess.trade.gov/help.aspx> and a handbook can be found at <https://iaaccess.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

¹ See Petitions for the Imposition of Antidumping Duties on Xanthan Gum from the People's Republic of China and Austria, filed on June 5, 2012 (the "Petitions").

² See 19 CFR 351.204(b)(1).

In other words, while there may be some physical product characteristics utilized by manufacturers to describe xanthan gum, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, we must receive comments filed in accordance with the Department's electronic filing requirements, available at 19 CFR 351.303(g), by July 16, 2012. Additionally, rebuttal comments must be received by July 23, 2012.

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 a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) 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: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the "industry."

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a 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 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 (*see* 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 law.⁴

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).

With regard to the domestic like product, Petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that xanthan gum constitutes a single domestic like product and we have analyzed industry support in terms of that domestic like product.⁵

In determining whether Petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the "Scope of the Investigations," in Appendix I of this notice. To establish industry support, Petitioner provided its own 2011 production of the domestic like product. In addition, we received a letter from the only other producer in the U.S. stating its 2011 production of the domestic like product.⁶

⁴ *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (Ct. Int'l Trade 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (Ct. Int'l Trade 1988)).

⁵ For a discussion of the domestic like product analysis in this case, *see* Antidumping Duty Investigation Initiation Checklist: Xanthan Gum from Austria ("Austria Initiation Checklist") at Attachment II, and Antidumping Duty Investigation Initiation Checklist: Xanthan Gum from the PRC ("PRC Initiation Checklist") at Attachment II, dated concurrently with this notice and on file electronically via IA ACCESS. Access to documents filed via IA ACCESS is also available in the Central Records Unit (CRU), Room 7046 of the main Department of Commerce building.

⁶ This producer expressed neither support for nor opposition to the Petition. Hence, the Department considers this producer to be neutral. *See* Volume I of the Petitions at 2 and Exhibit I-1, and Supplements to the Austria and PRC Petitions at 3, and Supplement to the Austria Petition at Exhibit I-2, and Supplement to the PRC Petition at Exhibit

Our review of the data provided in the Petitions, supplemental submissions, and other information readily available to the Department indicates that Petitioner has established industry support.⁷ First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).⁸ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.⁹ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for 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 Petitions.¹⁰ Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

The Department finds that Petitioner filed the Petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the AD investigations that it is requesting the Department initiate.¹¹

Allegations and Evidence of Material Injury and Causation

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 imports of the subject merchandise sold at less than normal value ("NV"). In addition, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

I-2, and ADM production letter; *see also* Austria Initiation Checklist at Attachment II and PRC Initiation Checklist at Attachment II.

⁷ *See* Austria Initiation Checklist at Attachment II and PRC Initiation Checklist at Attachment II.

⁸ *See* section 732(c)(4)(D) of the Act; *see also* Austria Initiation Checklist at Attachment II and PRC Initiation Checklist at Attachment II.

⁹ *See* Austria Initiation Checklist at Attachment II and PRC Initiation Checklist at Attachment II.

¹⁰ *See id.*

¹¹ *See id.*

Petitioner contends that the industry's injured condition is illustrated by reduced market share, lost sales and revenues, reduced production, reduced shipments, reduced capacity utilization rate, underselling and price depression and suppression, reduced workforce, decline in financial performance, and an increase in import penetration.¹² We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.¹³

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate investigations of imports of xanthan gum from Austria and the PRC. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the Austria Initiation Checklist and the PRC Initiation Checklist.

Export Price

Austria

Petitioner calculated export price ("EP") using U.S. imports from Austria during the POI under the Harmonized Tariff Schedule of the United States ("HTSUS") subheading 3913.90.20. To confirm the accuracy and reliability of the use of U.S. import statistics under this HTSUS subheading, Petitioner compared the U.S. import quantity by port for HTSUS subheading 3913.90.20 to the quantity of imports of xanthan gum from Austria captured in ship manifest data. Petitioner reviewed the manifest description of each shipment and correlated it to the import quantities from the U.S. import statistics under HTSUS subheadings 3913.90.20 such that the quantities are nearly identical for the POI. In addition, the ship manifest data also demonstrated that only food grade xanthan gum was imported from Austria into the United States during the POI. For this reason, Petitioner calculated the average unit value for the POI as the basis for U.S. price.¹⁴ As such, the EP provided by Petitioner is conservative.

The PRC

Petitioner calculated EP based on purchased prices for xanthan gum during the POI from a Chinese producer.¹⁵ The terms of sale for these invoices were FOB China port but Petitioner did not make an adjustment for domestic brokerage and handling expenses or freight charges to the port. As such, the EP provided by Petitioner is conservative.

Normal Value

Austria

Pursuant to sections 773(a)(4) and 773(e) of the Act, Petitioner based NV on constructed value ("CV") because it stated that Austrian home market and third-country market export pricing were not reasonably available to it.¹⁶ Petitioner calculated NV based on consumption rates of its own xanthan gum production facility in Oklahoma.¹⁷ Petitioner asserts that, to the best of its knowledge, the production methods and consumption rates of its own domestic xanthan gum production facility are similar to the production methods and consumption rates of the Austrian producer.¹⁸

Petitioner valued all raw material factors of production ("FOP") using publicly available Austrian import statistics from the Global Trade Atlas ("GTA").¹⁹ Petitioner relied on the POI for which data were available (*i.e.*, April 2011 through February 2012). Petitioner excluded from these GTA import statistics imports from countries previously determined by the Department to be NME countries.²⁰ In addition, Austrian imports from India, Indonesia, the Republic of Korea, and Thailand were excluded, as the Department has previously excluded prices from these countries because they maintain broadly available, non-industry-specific export subsidies.²¹ Also, if imports were labeled as originating from an "unspecified" country, they were excluded from the average value, because Petitioner could not be certain that they were not from

either an NME country or a country with generally available export subsidies.²² For Austrian import values reported in Euros, Petitioner converted these values to U.S. dollars ("USD") using the POI-average Euros/USD exchange rate, as reported on the Department's Web site.²³

Petitioner valued labor utilized in the production of xanthan gum based upon data collected by the International Labor Organization ("ILO") Geneva under the sub-classification of "24 Manufacture of Chemicals and Chemical Products."²⁴ Petitioner utilized the total labor cost in manufacturing category. Because the data were collected in 2004, Petitioner inflated the reported hourly wage rate by the consumer price index inflation ("CPI") rate in effect during the POI for Austria as reported by the International Monetary Fund ("IMF") and converted the wage rate from Euro/hour to USD/hour using the POI-average exchange rate, as reported on the Department's Web site.²⁵

Petitioner derived an electricity surrogate value using rates from November 2011 as reported in Europe's Energy Portal, which was then converted from Euros to USD using the POI-average exchange rate, as reported on the Department's Web site.²⁶ Petitioner derived a steam surrogate value using data from the same source and time period as the surrogate value for electricity.²⁷ Petitioner converted the steam surrogate value from Euros to USD using the POI-average exchange rate, as reported on the Department's Web site.²⁸

Petitioner stated that, to the best of its knowledge, the Austrian producer packages xanthan gum in cartons stacked on wooden pallets wrapped in plastic.²⁹ Surrogate values for packing

²² See, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 73 FR 24552, 24559 (May 5, 2008), unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 55039 (September 24, 2008). See Volume III of the Petitions at Exhibit III-2.

²³ See Volume III of the Petitions at Exhibit III-4; see also Supplement to the Austria Petition at 4 and Exhibit 7.

²⁴ See Volume III of the Petitions at 4-5 and Exhibit III-3.

²⁵ See Volume III of the Petitions at 4-5 and Exhibit III-3 and III-4 and Supplement to the Austria Petition at 6 and Exhibit 6.

²⁶ See Volume III of the Petitions at 5 and Exhibits III-5; see also Supplement to the Austria Petition at 14 and Exhibits 11-13.

²⁷ See Volume III of the Petitions at 5 and Exhibits III-5; see also Supplement to the Austria Petition at 14 and Exhibits 11-13.

²⁸ See Volume III of the Petitions at 5 and Exhibits III-5; see also Supplement to the Austria Petition at 14 Exhibits 11-13.

²⁹ See Volume III of the Petitions at 6.

¹² See Volume I of the Petitions at 26-48.

¹³ See Austria Initiation Checklist at Attachment III and PRC Initiation Checklist at Attachment III.

¹⁴ See Volume III of the Petitions at 7-8 and Exhibits III-9 and III-10.

¹⁵ See Volume II of the Petitions at 10 and Exhibit II-10; see also Supplement to the PRC Petition at 5 and Exhibit 5.

¹⁶ See Volume III of the Petitions at 4; see also Supplement to the Austria Petition at 5 and Exhibit 5.

¹⁷ See Volume III of the Petitions at 4 and Exhibits III-1.

¹⁸ See Volume III of the Petitions Exhibit III-1; see also Supplement to the Austria Petition at 7.

¹⁹ See Volume III of the Petitions at 4 and Exhibit III-2; see also Supplement to the Austria Petition at 13 and Exhibits 11 and 12.

²⁰ See Volume III of the Petitions at Exhibit III-2.

²¹ See Volume III of the Petitions at Exhibit III-2.

materials were derived from publicly available Austrian import statistics obtained from the GTA.³⁰

Petitioner relied on the 2011 financial performance data of its own domestic xanthan gum facility to value factory overhead, selling, and administrative expenses ("SG&A"), and profit.³¹

Based on our review of Petitioner's submissions, the Department determines that the CV used by Petitioner is acceptable for purposes of initiation.³²

The PRC

Petitioner states that the Department has long treated the PRC as a non-market economy ("NME") country and this designation remains in effect today.³³ In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status for the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Accordingly, the NV of the product is appropriately based on FOP valued in a surrogate market-economy country in accordance with section 773(c) of the Act. In the course of this investigation, all parties, including the public, will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters.

Petitioner contends that Thailand is the appropriate surrogate country for the PRC because: (1) It is at a level of economic development comparable to that of the PRC; and (2) it is a significant producer of comparable merchandise.³⁴ Further, surrogate values data from Thailand are available and reliable.³⁵ Moreover, Petitioner notes that the Department has previously used Thailand as the surrogate country in previous investigations involving the PRC.³⁶ In addition, Petitioner states that there are no known producers of xanthan gum from Thailand but there are Thai exports of comparable merchandise, which demonstrates that Thailand is a significant producer of

comparable merchandise.³⁷ Based on the information provided by Petitioner, we believe that it is appropriate to use Thailand as a surrogate country for initiation purposes. After the initiation of the investigation, interested parties will have the opportunity to submit comments regarding surrogate country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value FOP within 40 days from the date of publication of the preliminary determination.

Petitioner calculated the NV and dumping margins for the U.S. price, discussed above, using the Department's NME methodology as required by section 773(c) of the Act, 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. Petitioner calculated NV based on consumption rates of its own xanthan gum production facility in the PRC.³⁸ Petitioner asserts that, to the best of Petitioner's knowledge, production methods and consumption rates of its own Chinese xanthan gum production facility are similar to the production methods and consumption rates of other Chinese producers.³⁹

Petitioner valued all raw material FOP using publicly available surrogate country data; specifically, Petitioner used Thai import statistics from the GTA.⁴⁰ Petitioner relied on the POI for which data were available (*i.e.*, October 2011 through March 2012). Petitioner excluded from these GTA import statistics imports from countries previously determined by the Department to be NME countries. In addition, imports from India, Indonesia, the Republic of Korea, and Thailand were excluded, as the Department has previously excluded prices from these countries because they maintain broadly available, non-industry-specific export subsidies.⁴¹ Also, if imports were labeled as originating from an "unspecified" country, they were excluded from the average value, because Petitioner could not be certain that they were not from either an NME country or a country with generally available export subsidies.⁴²

For Thai import values reported in baht, Petitioner converted these values to USD per kilogram using the POI-average Thai baht/USD exchange rate, as reported on the Department's Web site.⁴³

Petitioner converted ethanol (ethyl alcohol) from liters to kilograms because the Thai surrogate value for ethanol was reported in liters but Petitioner's NV model for ethanol is in kilograms.⁴⁴

Consistent with the Department's new methodology for the valuation of labor in non-market economies, Petitioner valued labor utilized in the production of xanthan gum based upon data collected by the ILO and disseminated in Chapter 6A of the ILO Yearbook of Labor Statistics.⁴⁵ Petitioner utilized the total labor cost in manufacturing category. Petitioner converted the monthly wage rate to an hourly wage based upon Yearbook of Labor Statistics data for 2005 (the most recently published). Because the data were collected in 2005, Petitioner also inflated the reported wage rate by the consumer price index inflation rate in effect during the POI as reported by the IMF.⁴⁶

Because Petitioner could not segregate energy costs from the surrogate financial statement, Petitioner accounted for the electricity, steam, and water costs in the calculation of surrogate financial ratios.⁴⁷ This is consistent with the Department's recent decision in *Citric Acid and Certain Citrate Salts from the People's Republic of China: Final Affirmative Determination of Sales at Less than Fair Value*, 74 FR 16838 (April 13, 2009), and accompanying Issues and Decision Memorandum at Comment 2.

Petitioner stated that, to the best of its knowledge, Chinese producers regularly package xanthan gum in 25 kilogram sacks.⁴⁸ Surrogate values for packing materials were derived from publicly

³⁰ See Volume III of the Petitions at Exhibit III-2.

³¹ See Volume III of the Petitions at 5-6 and Exhibits III-6, III-7, and III-8; *see also* Supplement to the Austrian Petition at 7-12 and Exhibit 10.

³² See Austrian Initiation Checklist.

³³ See Volume II of the Petitions at 4.

³⁴ See Volume II of the Petitions at 4-5 and Exhibit II-1.

³⁵ See Volume II of the Petitions at 5.

³⁶ See Volume II of the Petitions at 5, citing *Sodium Hexametaphosphate From the People's Republic of China: Preliminary Results of Second Antidumping Duty Administrative Review*, 77 FR 17013, 17015 (March 23, 2012).

³⁷ See Volume II of the Petitions at 5-6 and Exhibit II-1.

³⁸ See Volume II of the Petitions at 6-9 and Exhibits II-11; *see also* Supplement to the PRC Petition at Exhibit 9.

³⁹ See Volume II of the Petitions at 6 and Exhibit II-2.

⁴⁰ See Volume II of the Petitions at 6-7, and Exhibit II-3; *see also* Supplement to the PRC Petition at 5-6 and Exhibits 7 and 9.

⁴¹ See Volume II of the Petitions at Exhibit II-3; *see also* Supplement to the PRC Petition at Exhibit 9.

⁴² See, e.g., *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of*

China: Preliminary Determination of Sales at Less Than Fair Value, 73 FR 24552, 24559 (May 5, 2008), unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 55039 (September 24, 2008). *See* Volume II of the Petitions at Exhibit II-3.

⁴³ See Volume II of the Petitions at 7-8 and Exhibit II-5.

⁴⁴ See Supplement to the PRC Petition at 5-6 and Exhibit 6.

⁴⁵ See Volume II of the Petitions at 7-8 and Exhibit II-4.

⁴⁶ See Volume II of the Petitions at Exhibit II-4.

⁴⁷ See Volume II of the Petitions at 10 and Exhibit II-11; *see also* Supplement to the PRC Petition at Exhibit 9.

⁴⁸ See Volume II of the Petitions at 9 and Exhibit II-11.

available Thai import statistics obtained from the GTA.⁴⁹

Petitioner used the financial statements of Ajinomoto (Thailand) Co., Ltd. ("Ajinomoto") to value factory overhead, SG&A, and profit. Petitioner identified Ajinomoto as a Thai producer of l-lysine ("lysine") and monosodium glutamate ("MSG"), which are comparable merchandise.⁵⁰ According to Petitioner, lysine and MSG are both produced via fermentation, use similar production equipment as that required to produce xanthan gum, and the raw material inputs are similar or identical to those used to manufacture xanthan gum.⁵¹ However, as discussed above, Petitioner could not segregate energy costs from the calculation of surrogate financial ratios; therefore, Petitioner did not incorporate energy inputs into the calculation of NV in the cost of manufacturing.⁵²

Based on our review of Petitioner's submissions, the Department determines that the surrogate values used by Petitioner are reasonably available and, thus, acceptable for purposes of initiation.⁵³

Fair Value Comparisons

Based on the data provided by Petitioner, there is reason to believe that imports of xanthan gum from Austria and the PRC are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of EP to CVs in accordance with section 773(a)(4) of the Act, the estimated dumping margin for xanthan gum from Austria is 145.20 percent.⁵⁴ Based on comparisons of EPs to NVs in accordance with section 773(c) of the Act, the estimated dumping margin for xanthan gum from the PRC is 154.07 percent.⁵⁵

Initiation of Antidumping Investigations

Based upon the examination of the Petitions on xanthan gum from Austria and the PRC, we find that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether

imports of xanthan gum from Austria and the PRC are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Targeted Dumping Allegations

On December 10, 2008, the Department issued an interim final rule for the purpose of withdrawing 19 CFR 351.414(f) and (g), the regulatory provisions governing the targeted dumping analysis in AD investigations, and the corresponding regulation governing the deadline for targeted dumping allegations, 19 CFR 351.301(d)(5).⁵⁶ The Department stated that "[w]ithdrawal will allow the Department to exercise the discretion intended by the statute and, thereby, develop a practice that will allow interested parties to pursue all statutory avenues of relief in this area."⁵⁷

In order to accomplish this objective, if any interested party wishes to make a targeted dumping allegation in either of these investigations pursuant to section 777A(d)(1)(B) of the Act, such allegations are due no later than 45 days before the scheduled date of the country-specific preliminary determination.

Respondent Selection

Austria

For the Austria investigation, although the Department normally relies on import data from U.S. Customs and Border Protection ("CBP") to select respondents in AD investigations involving market-economy countries, the HTSUS category under which xanthan gum may enter is a basket category. Therefore, the CBP data cannot be isolated to identify imports of subject merchandise during the POI. Accordingly, the Department must rely on an alternate methodology for respondent selection, as described below.

The Petitions name one company as a producer and/or exporter in Austria of xanthan gum: Jungbunzlaer Austria AG ("JBL").⁵⁸ The Petitions identify this one company as accounting for virtually all of the imports of xanthan gum from Austria. Moreover, we currently know of no further exporters or producers of subject merchandise. Accordingly, the

Department is selecting JBL as the mandatory respondent in this investigation pursuant to section 777A(c)(1) of the Act. We will consider comments from interested parties on this respondent selection. Parties wishing to comment must do so within five days of the publication of this notice in the **Federal Register**.⁵⁹

The PRC

For the PRC investigation, the Department will request quantity and value information from known exporters/producers identified with complete contact information in the Petitions.⁶⁰ The quantity and value data received from NME exporters/producers in the PRC will be used as the basis to select the mandatory respondents.

The Department requires that respondents submit a response to both the quantity and value questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status.⁶¹ On the date of the publication of this initiation notice in the **Federal Register**, the Department will post the quantity and value questionnaires, along with the filing instructions, on the Import Administration Web site at <http://ia.ita.doc.gov/ia-highlights-and-news.html>, and a response to the quantity and value questionnaire is due no later than July 16, 2012.

Interested parties must submit applications for disclosure under administrative protective order ("APO") in accordance with 19 CFR 351.305. Instructions for filing such applications may be found on the Department's Web site at <http://ia.ita.doc.gov/apo>.

Separate Rates

In order to obtain separate-rate status in NME investigations, exporters and producers must submit a separate-rate status application.⁶² The specific requirements for submitting the separate-rate application in this investigation are outlined in detail in the application itself, which will be

⁴⁹ See Volume II of the Petitions at Exhibits II-3 and II-11; see also Supplement to the PRC Petition at Exhibit 9.

⁵⁰ See Volume II of the Petitions at 8-9 and Exhibit II-8.

⁵¹ See Volume II of the Petitions at 9 and Exhibits II-8 and II-12; see also Supplement to the PRC Petition at Exhibit 9.

⁵² See Volume II of the Petitions at 10 and Exhibit II-11; see also Supplement to the PRC Petition at Exhibit 9.

⁵³ See PRC Initiation Checklist.

⁵⁴ See Supplement to the Austria Petition at 13 and Exhibit 12.

⁵⁵ See the PRC Initiation Checklist.

⁵⁶ See *Withdrawal of the Regulatory Provisions Governing Targeted Dumping in Antidumping Duty Investigations*, 73 FR 74930 (December 10, 2008).

⁵⁷ See *id.*, 73 FR at 74931.

⁵⁸ See Volume I of the Petitions at Exhibit I-5.

⁵⁹ See *Bottom Mount Combination Refrigerator-Freezers from the Republic of Korea and Mexico Initiation of Antidumping Duty Investigations*, 76 FR 23281, 23285 (April 26, 2011).

⁶⁰ See Volume I of Petitions at 25 and Exhibit I-2; see also Supplement to the PRC Petition at 7 and Exhibit 8.

⁶¹ See, e.g., *Circular Welded Austenitic Stainless Pressure Pipe from the People's Republic of China: Initiation of Antidumping Duty Investigation*, 73 FR 10221, 10225 (February 26, 2008).

⁶² See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries (April 5, 2005) ("Separate Rates and Combination Rates Bulletin"), available on the Department's Web site at <http://ia.ita.doc.gov/policy/bull05-1.pdf>.

available on the Department's Web site at <http://ia.ita.doc.gov/ia-highlights-and-news.html> on the date of publication of this initiation notice in the **Federal Register**. The separate-rate application will be due 60 days after publication of this initiation notice. In the PRC investigation, for exporters and producers who submit a separate-rate status application and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for consideration for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents. As noted in the "Respondent Selection" section above, the Department requires that respondents submit a response to both the quantity and value questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status. The quantity and value questionnaire will be available on the Department's Web site at <http://ia.ita.doc.gov/ia-highlights-and-news.html> on the date of the publication of this initiation notice in the **Federal Register**.

Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.

See Separate Rates and Combination Rates Bulletin at 6 (emphasis added).

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the Government of the PRC and

Austrian authorities. Because of the large number of producers/exporters identified in the Petitions, the Department considers the service of the public version of the Petitions to the foreign producers/exporters satisfied by the delivery of the public version to the Government of the PRC and Austrian authorities, consistent with 19 CFR 351.203(c)(2).

ITC Notification

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

Preliminary Determinations by the ITC

The ITC will preliminarily determine no later than July 20, 2012, whether there is a reasonable indication that imports of xanthan gum from Austria and the PRC are materially injuring or threatening 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.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR 3634 (Jan. 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (e.g., the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

Any party submitting factual information in an AD/countervailing duty ("CVD") proceeding must certify to the accuracy and completeness of that information.⁶³ Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives in all segments of any AD/CVD proceedings initiated on or after March 14, 2011.⁶⁴ The formats for the revised certifications are provided at the end of the *Interim Final Rule*. The Department intends to reject factual

submissions in any proceeding segments initiated on or after March 14, 2011, if the submitting party does not comply with the revised certification requirements.

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

Dated: June 25, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I

Scope of the Investigations

The scope of these investigations covers dry xanthan gum, whether or not coated or blended with other products. Further, xanthan gum is included in these investigations regardless of physical form, including, but not limited to, solutions, slurries, dry powders of any particle size, or unground fiber.

Xanthan gum that has been blended with other product(s) is included in this scope when the resulting mix contains 15 percent or more of xanthan gum by dry weight. Other products with which xanthan gum may be blended include, but are not limited to, sugars, minerals, and salts.

Xanthan gum is a polysaccharide produced by aerobic fermentation of *Xanthomonas campestris*. The chemical structure of the repeating pentasaccharide monomer unit consists of a backbone of two P-1,4-D-Glucose- monosaccharide units, the second with a trisaccharide side chain consisting of P-D-Mannose-(1,4)- P-D-Glucuronic acid-(1,2)—a-D-Mannose monosaccharide units. The terminal mannose may be pyruvylated and the internal mannose unit may be acetylated.

Merchandise covered by the scope of these investigations is classified in the Harmonized Tariff Schedule of the United States at subheading 3913.90.20. This tariff classification is provided for convenience and customs purposes; however, the written description of the scope is dispositive.

[FR Doc. 2012-16183 Filed 6-29-12; 8:45 am]

BILLING CODE 3510-DS-P

⁶³ See section 782(b) of the Act.

⁶⁴ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings: Interim Final Rule*, 76 FR 7491 (February 10, 2011) (*Interim Final Rule*) amending 19 CFR 351.303(g)(1) & (2) and supplemented by *Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings: Supplemental Interim Final Rule*, 76 FR 54697 (September 2, 2011).