

DEPARTMENT OF COMMERCE

International Trade Administration

[A-821-811]

Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation; Final Results of the Expedited Sunset Review of Antidumping Duty Order

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

SUMMARY: On March 1, 2011, the Department of Commerce (“the Department”) initiated a second sunset review of the suspended antidumping duty investigation on solid fertilizer grade ammonium nitrate (“ammonium nitrate”) from the Russian Federation (“Russia”).¹ Effective May 2, 2011, the Department terminated the agreement suspending the antidumping duty investigation and issued an antidumping duty order on ammonium nitrate from Russia. On the basis of the notice of intent to participate, an adequate substantive response submitted on behalf of the domestic interested parties, and no participation from respondent interested parties, the Department conducted an expedited sunset review of the antidumping duty order pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended (“Act”) and 19 CFR 351.218(e)(1)(ii)(C). As a result of this sunset review, the Department determined that termination of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels listed below in the section entitled “Final Results of Review.”

DATES: *Effective Date:* July 7, 2011.

FOR FURTHER INFORMATION CONTACT: Julie H. Santoboni or Judith Wey Rudman, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230; *telephone:* 202-482-3063 or 202-482-0192, respectively.

SUPPLEMENTARY INFORMATION:

History of the Suspension Agreement and Order

On August 12, 1999, the Department initiated an antidumping duty investigation on ammonium nitrate from Russia under section 732 of the Act. *See Initiation of Antidumping Duty Investigation: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation*, 64 FR 45236 (August 19,

1999). On January 7, 2000, the Department preliminarily determined that ammonium nitrate from Russia was being, or was likely to be, sold in the United States at less than fair value. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation*, 65 FR 1139 (January 7, 2000).

The Department suspended the antidumping duty investigation on ammonium nitrate from Russia, effective May 19, 2000. The basis for this action was an agreement between the Department and the Ministry of Trade of the Russian Federation (“MOT”) (the predecessor to the current Ministry of Economic Development (“MED”)) accounting for substantially all imports of ammonium nitrate from Russia, wherein the MOT agreed to restrict exports of ammonium nitrate from all Russian producers/exporters to the United States and to ensure that such exports were sold at or above the agreed reference price. *See Suspension of Antidumping Duty Investigation: Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation*, 65 FR 37759 (June 16, 2000) (“*Suspension Agreement*”).

Thereafter, pursuant to a request by the petitioner, the Committee for Fair Ammonium Nitrate Trade (“COFANT”), the Department completed its investigation and published in the **Federal Register** its final determination of sales at less than fair value. *See Notice of Final Determination of Sales at Less Than Fair Value; Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation*, 65 FR 42669 (July 11, 2000) (“*Final Determination*”). In the *Final Determination*, the Department calculated weighted-average dumping margins of 253.98 percent for JSC Nevinnomyssky Azot, a respondent company in the investigation, and for the Russia-wide entity.

On March 31 and April 1, 2005, respectively, the International Trade Commission (“ITC”) instituted, and the Department initiated, a five-year sunset review of the suspended antidumping investigation on ammonium nitrate from Russia. The Department concluded that termination of the suspended antidumping investigation would be likely to lead to continuation or recurrence of dumping and the ITC concluded that termination of the suspended investigation would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Final Results of Five-year Sunset Review of Suspended Antidumping Duty Investigation on*

¹ *See Initiation of Five-Year (“Sunset”) Review*, 76 FR 11202 (March 1, 2011) (“*Notice of Initiation*”).

Ammonium Nitrate from the Russian Federation 71 FR 11177 (March 6, 2006) and *Ammonium Nitrate From Russia*, Investigation No. 731-TA-856 (Review), 71 FR 16177 (March 30, 2006), respectively.

On March 1, 2011, the Department initiated and the ITC instituted a second sunset review of the ammonium nitrate suspended investigation. See *Notice of Initiation and Ammonium Nitrate from Russia*, Investigation No. 731-TA-856 (Second Review), 76 FR 11273 (March 1, 2011).

On March 3, 2011, the Department received a letter from the MED dated February 22, 2011, that had been sent to the United States Embassy in Moscow for transmittal to the Department concerning the *Suspension Agreement*. In that letter, the MED stated that it was withdrawing from the *Suspension Agreement*, effective 60 days after notice of termination. Effective May 2, 2011, the Department terminated the suspension agreement and issued an antidumping duty order. See *Termination of the Suspension Agreement on Solid Fertilizer Grade Ammonium Nitrate From the Russian Federation and Notice of Antidumping Duty Order*, 76 FR 23569 (April 27, 2011).

Background

Section 351.218(d)(1)(i) of the Department's regulations provides domestic interested parties the opportunity to file a notice of intent to participate in a sunset review within 15 days of initiation of review. The Department received a notice of intent to participate within the applicable deadline specified in 19 CFR 351.218(d)(1)(i) from COFANT ("the domestic interested party"). The domestic interested party claims interested-party status as a coalition of producers of subject merchandise in the United States as defined by section 771(9)(C) of the Act. In addition, the domestic interested party asserts that its members are not related to a foreign producer/exporter and are not importers of the subject merchandise. CF Industries, one of the members of COFANT, holds a 50 percent interest in Keytrade AG, a global fertilizer trader. The domestic interested party asserts that Keytrade AG does not sell Russian ammonium nitrate to the United States, nor does CF Industries own a controlling interest in Keytrade AG, within the meaning of section 771(4)(B) of the Act.

The Department's regulations at 19 CFR 351.218(d)(3)(i) state that all interested parties participating in a sunset review must submit a complete

substantive response within 30 days of initiation of the sunset review. On March 31, 2011, the Department received a complete substantive response from the domestic interested party within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).² After examining the substantive response from the domestic interested party, on April 12, 2011, the Department determined that the response was adequate, consistent with the requirements of 19 CFR 351.218(e). See Memorandum from Julie H. Santoboni, Senior Policy Analyst, Office of Policy, Import Administration to Judith Wey Rudman, Director for Bilateral Agreements, Office of Policy, Import Administration, regarding "Second Sunset Review of the Suspended Investigation of Ammonium Nitrate from the Russian Federation: Adequacy Determination" (April 12, 2011). See also Letter from James Maeder, Director, Office 2, AD/CVD Operations, Import Administration, to Ms. Catherine DeFilippo, Director, Office of Investigations, International Trade Commission (April 18, 2011).

The Department did not receive any substantive responses from respondent interested parties to this proceeding. On May 10, 2011, COFANT filed a letter on the record of this proceeding, asserting that an expedited review is warranted and supported by the statute, the Statement of Administrative Action, and the Department's regulations. Pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited (120-day), sunset review of the antidumping duty order.

Scope of the Order

The products covered by the order on ammonium nitrate from Russia include solid, fertilizer grade ammonium nitrate products, whether prilled, granular or in other solid form, with or without additives or coating, and with a bulk density equal to or greater than 53 pounds per cubic foot. Specifically excluded from this scope is solid ammonium nitrate with a bulk density less than 53 pounds per cubic foot (commonly referred to as industrial or explosive grade ammonium nitrate). The merchandise subject to the order is classified in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheading 3102.30.00.00. Although the HTSUS subheadings are provided for

² The substantive response was filed prior to the termination of the suspension agreement and thus references the suspension agreement, rather than the order.

convenience and customs purposes, the written description of the merchandise within the scope of the order is dispositive.

Analysis of Comments Received

All issues raised in this sunset review are addressed in the "Issues and Decision Memorandum for the Final Results of the Expedited Sunset Review of the Antidumping Duty Order on Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation" from Paul Piquado, Deputy Assistant Secretary for Policy and Negotiations, Import Administration, to Ronald Lorentzen, Deputy Assistant Secretary for Import Administration, dated June 29, 2011 ("Decision Memo"), which is hereby adopted by this notice. The issues discussed in the Decision Memo include both the likely effects of termination of the suspension agreement and underlying investigation and the magnitude of the margin likely to prevail if the suspended investigation were terminated. Parties can find a complete discussion of all issues raised in this sunset review and the corresponding recommendations in this public memo, which is on file in room 7046 of the main Commerce Building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the Decision Memo are identical in content.

Final Results of Review

The Department determines that termination of the antidumping duty order on ammonium nitrate from Russia would be likely to lead to continuation or recurrence of dumping at the following weighted-average margins:

Manufacturers/producers/exporters	Weighted-average margin (percent)
JSC Nevinnomyssky Azot	253.98
Russia-Wide Rate	253.98

This notice also serves as the only reminder to parties subject to administrative protective orders ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act.

Dated: June 29, 2011.

Paul Piquado,

Acting Deputy Assistant Secretary for Import Administration.

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