

**ACTION:** Notice of Preliminary Results of Antidumping Duty Changed Circumstances Review.

**SUMMARY:** On July 31, 2003, the Department of Commerce (the Department) published a notice of initiation of changed circumstances review of the antidumping duty finding on polychloroprene rubber (PR) from Japan to determine whether Showa Denko Elastomers, K.K. (SDEL) and Showa Denko K.K. (SDK) are the successor-in-interest companies to Showa DDE Manufacturing K.K. (SDEM) and DDE Japan Kabushiki Kaisha (DDE Japan). *See Notice of Initiation of Antidumping Duty Changed Circumstances Review: Polychloroprene Rubber from Japan*, 68 FR 44924 (July 31, 2003) (*Notice of Initiation*). We have preliminarily determined that the restructured manufacturing and marketing joint venture, SDEL and SDK, are the successor-in-interest companies to SDEM and DDE Japan, for purposes of determining antidumping liability in this proceeding. Interested parties are invited to comment on these preliminary results.

**EFFECTIVE DATE:** October 24, 2003.

**FOR FURTHER INFORMATION CONTACT:** Zev Primor or Ronald Trentham, AD/CVD Enforcement, Group II, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-4114 or (202) 482-6320, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 6, 1973, the Treasury Department published in the **Federal Register** (38 FR 33593) the antidumping finding on PR from Japan. On June 17, 2003, SDEL and SDK submitted a letter stating that they are the successor-in-interest to SDEM and DDE Japan, and, as such, entitled to receive the same antidumping treatment as these companies have been accorded. On July 18, 2003, at the request of the Department, SDEL and SDK submitted additional information and documentation pertaining its change circumstances request.

**Scope of Review**

Imports covered by this review are shipments of PR, an oil resistant synthetic rubber also known as polymerized chlorobutadiene or neoprene, currently classifiable under items 4002.42.00, 4002.49.00, 4003.00.00, 4462.15.21 and 4462.00.00 of the *Harmonized Tariff Schedule of the United States* (HTSUS). HTSUS item

numbers are provided for convenience and customs purposes. The written description remains dispositive.

**Preliminary Results of Changed Circumstances Review**

In submissions to the Department dated June 17 and July 18, 2003, SDEL and SDK advised the Department that on November 1, 2002, the joint venture of SDEM and DDE Japan was restructured. Prior to the current restructure, SDEM and DDE Japan were co-owned by Dupont Dow Elastomers L.L.C. (Dupont Dow) and SDK. *See Notice of Final Changed Circumstances Antidumping Duty Administrative Review: Polychloroprene Rubber from Japan*, 67 FR 58 (January 2, 2002). In the original joint venture, SDEM was the manufacturing arm of joint venture producing PR while DDE Japan was the marketing arm of the joint venture. As part of the current restructuring, DuPont Dow transferred its interest in SDEM to SDK. SDK, in turn, transferred its interest in DDE Japan to DuPont Dow. As a result of these interest transfers, SDK became the sole owner of SDEM and DuPont Dow became the sole owner of DDE Japan. On the same date, SDEM was renamed SDEL while maintaining the original production facility. The marketing end of SDEL's business was assumed by SDK.

In making a successor-in-interest determination, the Department examines several factors including, but not limited to, changes in: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See Brass Sheet and Strip from Canada: Notice of Final Results of Antidumping Administrative Review*, 57 FR 20460, 20462 (May 13, 1992) (*Canadian Brass*). While no one or several of these factors will necessarily provide a dispositive indication, the Department will generally consider the new company to be the successor to the previous company if its resulting operation is not materially dissimilar to that of its predecessor. *See, e.g., Industrial Phosphoric Acid from Israel: Final Results of Changed Circumstances Review*, 59 FR 6944, 6945 (February 14, 1994) and *Canadian Brass*, 57 FR 20460. Therefore, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company essentially operates as the same business entity as the former company, the Department will assign the new company the cash deposit rate of its predecessor.

Our review of the evidence provided by SDEL and SDK indicates, preliminarily, that the change in ownership has not significantly changed

the companies' personnel, operations, supplier/customer relationship, or production facilities. The new corporate entity of SDEL and SDK provided a certified copy of the official corporate registry showing SDEL as a successor to SDEM as of November 1, 2002, the effective date of the restructuring, as well as documents showing that since the name change, SDEL continued its production of PR in the same manner using the same suppliers and facilities as it did under its previous name of SDEM. Additionally, the corporate registry indicates that the majority of SDEM's management was retained by the new corporate entity SDEL.

Furthermore, SDK provided certified statements from its general manager that certain activities undertaken by DDE Japan prior to November 1, 2002, (*i.e.*, sales and marketing, technical services, order receiving and freight forwarding of PR) have since been performed by SDK. SDK also certified that it rehired key marketing personnel from DDE Japan. Finally, SDK provided a copy of Stock Purchase Agreement for DDE Japan and a copy of Offers of Employment for DDE Japan's key marketing employees as evidence that the marketing functions, performed originally by DDE Japan, have been assumed by SDK.

In sum, SDEL and SDK have presented evidence to establish a prima facie case of their successorship status. The restructuring has precipitated minimal changes to the original structure of the SDEM and DDE Japan joint venture. The management, production facilities, supplier relationships, sales facilities and customer base are essentially unchanged from those of SDEM and DDE Japan. Therefore, the record evidence demonstrates that the new entity essentially operates in the same manner as the predecessor companies of SDEM and DDE Japan. As SDEL manufactures PR and SDK sells/distributes PR produced by SDEL for the newly restructured entity, we preliminarily determine that SDEL and SDK should be given the same antidumping duty treatment as SDEM and DDE Japan, *i.e.*, zero percent antidumping duty cash deposit rate.

The cash deposit determination from this changed circumstances review will apply to all entries of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this changed circumstances review. *See Granular Polytetrafluoroethylene Resin from Italy: Final Results of Antidumping Duty Changed Circumstances Review*, 68 FR