

disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: February 19, 2003.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

#### **Appendix--Issues in Decision Memorandum**

1. Whether Lithuania Should Be Used as a Surrogate Country
2. Whether Catalysts Should Be Valued Separately
3. Whether Water and Water-based Inputs (Steam and Raw Condensate) Should Be Valued Separately
4. Whether Grodno Should Be Issued a Separate Rate

[FR Doc. 03-4648 Filed 2-26-03; 8:45 am]

BILLING CODE 3510-DS-S

## **DEPARTMENT OF COMMERCE**

### **International Trade Administration**

[A-823-814]

#### **Notice of Final Determination of Sales at Less Than Fair Value: Urea Ammonium Nitrate Solutions from Ukraine**

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

**EFFECTIVE DATE:** February 27, 2003.

**FOR FURTHER INFORMATION CONTACT:** Crystal Scherr Crittenden at (202) 482-0989, or Tom Futtner at (202) 482-3814, Office of AD/CVD Enforcement IV, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

#### **SUPPLEMENTARY INFORMATION:**

##### **Final Determination**

We determine that urea ammonium nitrate solutions (UANS) from Ukraine are being, or are likely to be, sold in the United States at less than fair value (LFTV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

#### **Case History**

On October 3, 2002, the Department published its preliminary determination in the above-captioned antidumping duty investigation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Urea Ammonium Nitrate Solutions from Ukraine*, 67 FR 62013 (October 3, 2002) (*Preliminary Determination*). *See also Notice of Initiation of Antidumping Duty Investigations: Urea Ammonium Nitrate Solutions from Belarus, Lithuania, the Russian Federation, and Ukraine*, 67 FR 35492 (May 20, 2002) (*Initiation Notice*).

Since the preliminary determination, the following events have occurred. On November 1, 2002, the petitioner<sup>1</sup> requested a hearing pursuant to 19 CFR 351.301(e). However, no hearing was held in this investigation because the petitioner withdrew its request for a hearing. On November 27, 2002, the Department postponed the final determination for this investigation in accordance with 19 CFR 351.210(b). *See Postponement of the Final Determinations in the Less-Than-Fair-Value Investigations of Urea Ammonium Nitrate Solutions From Belarus, the Russian Federation, and Ukraine*, 67 FR 67823 (November 7, 2002). On December 23, 2002, the Department issued the schedule for interested parties to comment on the preliminary determination. *See Memo to the File from Paige Rivas, Thomas Martin and Crystal Crittenden dated December 23, 2002.* No case or rebuttal briefs were submitted.

#### **Scope of Investigation**

For purposes of these investigations, the product covered is all mixtures of urea and ammonium nitrate in aqueous or ammoniacal solution, regardless of nitrogen content by weight, and regardless of the presence of additives, such as corrosion inhibitors. The merchandise subject to these investigations is classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3102.80.00.00. Although the HTSUS item number is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

#### **Period of Investigation**

The period of investigation (POI) is October 1, 2001, through March 31, 2002.

<sup>1</sup> The petitioner is the Nitrogen Solutions Fair Trade Committee (the petitioner). Its members consist of CF Industries, Inc., Mississippi Chemical Corporation, and Terra Industries, Inc.

#### **Nonmarket Economy Country Status**

The Department has treated Ukraine as an nonmarket economy (NME) country in all previous antidumping investigations. *See Notice of Final Determination of Sales at Less Than Fair Value: Solid Agricultural Ammonium Nitrate from Ukraine*, 66 FR 38632 (July 25, 2001). This NME designation remains in effect until it is revoked by the Department. *See* section 771(1)(C) of the Act. No party has sought revocation of the NME status in this investigation.<sup>2</sup> Therefore, in accordance with section 771(1)(C) of the Act, we will continue to treat Ukraine as an NME country.

#### **Ukraine-Wide Rate**

In an NME proceeding, the Department presumes that all companies within the country are subject to governmental control, and assigns separate rates only if the respondent demonstrates the absence of both *de jure* and *de facto* governmental control over export activities. *See Notice of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 19026, 19027 (April 30, 1996). In the *Preliminary Determination*, we found that the mandatory respondents, JSC Stirol (Stirol) and JSC Azot Cherkassy (Cherkassy), did not demonstrate eligibility for a separate rate. Accordingly, we preliminarily determined that Stirol and Cherkassy, in addition to all other exporters, are part of the NME-entity and subject to the Ukraine-wide rate.

We received no comments on this issue. Therefore, in our final results we continue to find that Stirol and Cherkassy, in addition to all other exporters, are part of the NME entity and therefore subject to the Ukraine-wide rate.

#### **Use of Facts Available**

In the *Preliminary Determination*, the Department found that the respondents did not cooperate to the best of their ability and applied the total adverse facts available rate of 193.58 percent, the corroborated initiation rate, as the "Ukraine-wide" rate. *See Preliminary Determination. See also Initiation Notice.* No interested party objected to the use of adverse facts available, nor to

<sup>2</sup> We note that the Department received a request for revocation of Ukraine's NME status but determined to defer its decision on this issue. *See Notice to Defer a Decision Regarding Ukraine's Non-Market Economy Status: Antidumping Duty Investigation of Carbon and Certain Alloy Steel Wire Rod from Ukraine*, 67 FR 51536 (August 8, 2002). Information on this separate proceeding can also be found at Import Administration's website, at <http://ia.ita.doc.gov/>