

(10) PVA covalently bonded with silan uniformly present on all polymer chains certified for use in paper coating applications.

(11) PVA covalently bonded with sulfonic acid uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.

(12) PVA covalently bonded with acetoacetylate uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.

(13) PVA covalently bonded with polyethylene oxide uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.

(14) PVA covalently bonded with quaternary amine uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.

(15) PVA covalently bonded with diacetoneacrylamide uniformly present on all polymer chains in a concentration level greater than three mole percent, certified for use in a paper application.

The merchandise under investigation is currently classifiable under subheading 3905.30.00 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

#### Period of Investigation

The POI is July 1, 2001, through June 30, 2002. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, September 2002).

#### Facts Available

In the preliminary determination, we based the dumping margin for the two mandatory respondents in this case, Clariant GMBH (Clariant) and Kuraray Specialties Europe GMBH (Kuraray Europe), on adverse facts available pursuant to section 776(b) of the Act. The use of adverse facts available was warranted because Clariant and Kuraray Europe, as mandatory respondents, failed to supply the information requested in the antidumping duty questionnaires issued to them. Therefore, we found that Clariant and Kuraray Europe failed to cooperate by not acting to the best of their ability. As a result, pursuant to section 776(b) of the Act, we used an adverse inference in selecting from the facts available. Specifically, we assigned Clariant and Kuraray Europe the highest margin stated in the notice of initiation (*i.e.*,

19.05 percent). We continue to find this margin corroborated, pursuant to section 776(c) of the Act. A complete explanation of both the selection and application of facts available can be found in the *Preliminary Determination*, 68 FR at 7981–82.

No interested parties have commented on the use of adverse facts available for Clariant and Kuraray Europe in this investigation, or to the choice of the facts available margin. Accordingly, for the final determination, we are continuing to use the highest margin stated in the notice of initiation for both Clariant and Kuraray Europe. See the *Preliminary Determination*, 68 FR at 7983.

We have left unchanged from the preliminary determination the “All Others Rate” in this investigation. See the *Preliminary Determination*, 68 FR at 7983.

#### Analysis of Comments Received

We received no comments from interested parties in response to our preliminary determination. We did not hold a hearing because none was requested.

#### Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend all entries of PVA from Germany, that are entered, or withdrawn from warehouse, for consumption on or after February 19, 2003, the date of publication of our preliminary determination. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These instructions suspending liquidation will remain in effect until further notice.

The dumping margins are provided below:

Manufacturer/exporter	Margin (percent)
Clariant GMBH .....	19.05
Kuraray Specialties Europe GMBH .....	19.05
All Others .....	10.75

#### ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S.

industry. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing the Customs Service to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

#### Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the 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 pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: April 14, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–9735 Filed 4–18–03; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-588–861]

#### Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Japan

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

**EFFECTIVE DATE:** April 21, 2003.

**FOR FURTHER INFORMATION CONTACT:** Mike Strollo or Gregory E. Kalbaugh at (202) 482–0629 or (202) 482–3693, respectively, Office of AD/CVD Enforcement, Office 2, 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 polyvinyl alcohol (PVA) from Japan is being sold, or is likely to be sold, in the United States at

less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

### Background

The preliminary determination in this investigation was issued on February 12, 2003. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Japan*, 68 FR 8203 (Feb. 20, 2003) (*Preliminary Determination*).

Since the preliminary determination, the following events have occurred. On February 21, 2003, the Nippon Synthetic Chemical Industry Co., Ltd. (Nippon Gohsei), one of the mandatory respondents in this investigation, notified the Department that it would no longer participate in this investigation, and it requested that the Department remove its business proprietary information from the record of this proceeding. On February 27, 2003, the Department destroyed Nippon Gohsei's submissions containing business proprietary information and notified Nippon Gohsei of this action. For further discussion, see the "Facts Available (FA)" section of this notice.

On March 3, 2003, the petitioners agreed to revise the scope to exclude certain types of PVA covalently bonded with diacetoneacrylamide, pursuant to a request by one of the mandatory respondents in this case, Japan VAM and POVAL Co., Ltd. (Japan VAM & POVAL). For a description of this merchandise, see the "Scope of the Investigation" section below. There were no case or rebuttal briefs submitted. A public hearing was not requested.<sup>1</sup>

### Scope of Investigation

The merchandise covered by this investigation is PVA. This product consists of all PVA hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid, except as noted below.

The following products are specifically excluded from the scope of this investigation:

(1) PVA in fiber form.

(2) PVA with hydrolysis less than 83 mole percent and certified not for use in the production of textiles.

(3) PVA with hydrolysis greater than 85 percent and viscosity greater than or equal to 90 cps.

(4) PVA with a hydrolysis greater than 85 percent, viscosity greater than or equal to 80 cps but less than 90 cps, certified for use in an ink jet application.

(5) PVA for use in the manufacture of an excipient or as an excipient in the manufacture of film coating systems which are components of a drug or dietary supplement, and accompanied by an end-use certification.

(6) PVA covalently bonded with cationic monomer uniformly present on all polymer chains in a concentration equal to or greater than one mole percent.

(7) PVA covalently bonded with carboxylic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent, certified for use in a paper application.

(8) PVA covalently bonded with thiol uniformly present on all polymer chains, certified for use in emulsion polymerization of non-vinyl acetic material.

(9) PVA covalently bonded with paraffin uniformly present on all polymer chains in a concentration equal to or greater than one mole percent.

(10) PVA covalently bonded with silan uniformly present on all polymer chains certified for use in paper coating applications.

(11) PVA covalently bonded with sulfonic acid uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.

(12) PVA covalently bonded with acetoacrylate uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.

(13) PVA covalently bonded with polyethylene oxide uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.

(14) PVA covalently bonded with quaternary amine uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.

(15) PVA covalently bonded with diacetoneacrylamide uniformly present on all polymer chains in a concentration level greater than three mole percent, certified for use in a paper application.

The merchandise under investigation is currently classifiable under subheading 3905.30.00 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheading 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 July 1, 2001, through June 30, 2002. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, September 2002).

### Facts Available (FA)

In the preliminary determination, we based the dumping margin for three of the four mandatory respondents in this case, Denki Kagaku Kogyo Kabushiki Kaisha (Denki Kagaku), Japan VAM & POVAL, and Kuraray Co., Ltd. (Kuraray), on adverse facts available pursuant to section 776(b) of the Act. The use of adverse facts available was warranted because Denki Kagaku, Japan VAM & POVAL, and Kuraray, as mandatory respondents, failed to supply the information requested in the antidumping duty questionnaires issued to them. Therefore, we found that Denki Kagaku, Japan VAM & POVAL, and Kuraray failed to cooperate by not acting to the best of their ability. As a result, pursuant to section 776(b) of the Act, we used an adverse inference in selecting from the facts available. Specifically, we assigned Denki Kagaku, Japan VAM & POVAL, and Kuraray the highest margin alleged in the notice of initiation. A complete explanation of both the selection and application of facts available can be found in the *Preliminary Determination*, 68 FR at 8205. We have done a new corroboration analysis which is discussed below.

No interested parties have commented on the use of adverse facts available for Denki Kagaku, Japan VAM & POVAL, and Kuraray in this investigation, or to the choice of the facts available margin. Accordingly, for the final determination, we are continuing to use the highest margin alleged in the notice of initiation for Denki Kagaku, Japan VAM & POVAL, and Kuraray. See the *Preliminary Determination*, 68 FR at 8209. Moreover, we continue to find that the data on which this margin is based has probative value, as discussed below in the "Corroboration of Information" section of this notice.

Regarding the fourth mandatory respondent, Nippon Gohsei, on February 21, 2003, this company notified the Department that it would no longer participate in the investigation. Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information requested by the Department, (B) fails to provide such information by the deadline, or in the

<sup>1</sup> Normally, when the Department issues a final determination, the Federal Register notice is accompanied by a separate Issues and Decision Memorandum. Since no briefs were filed in this case, we have not issued a separate memorandum.

form or manner requested, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. Because Nippon Gohsei provided information to the Department but subsequently withdrew that information from the record of this case, we have applied FA to calculate its dumping margin, pursuant to section 776(a)(2)(C) of the Act.

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with a request for information. *See, e.g., Notice of Final Determination of Sales of Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794–96 (Aug. 30, 2002). Nippon Gohsei was notified in the Department's original and supplemental questionnaires that failure to submit the requested information by the dates specified might result in use of FA. After the Department issued its preliminary determination, Nippon Gohsei: 1) notified the Department that it would no longer participate in this investigation; and 2) withdrew its submissions containing business proprietary information from the record. Without Nippon Gohsei's data, we are unable to calculate a dumping margin for Nippon Gohsei. As a consequence, we find that Nippon Gohsei has failed to cooperate to the best of its ability. As Nippon Gohsei failed to cooperate to the best of its ability, we are applying an adverse inference pursuant to section 776(b) of the Act.

#### Corroboration of Information

Section 776(b) of the Act authorizes the Department to use as AFA information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record.

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as FA. Secondary information is defined as “{i}nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.” *See Statement of Administrative Action (SAA)*

accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103–316 at 870 (1994) and 19 CFR 351.308(d).

The SAA clarifies that “corroborate” means that the Department will satisfy itself that the secondary information to be used has probative value. *See* the SAA at 870. The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *Id.*

In the preliminary determination, we corroborated the margins in the petition using information submitted by Nippon Gohsei. However, because Nippon Gohsei has withdrawn this information from the record of this case, we have re-examined the issue of corroboration for the final determination.

Therefore, in order to determine the probative value of the margins in the petition for use as AFA for purposes of this determination, we examined additional evidence supporting the calculations in the petition. We reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis of the petition, to the extent appropriate information was available for this purpose (*see* the September 25, 2002, Initiation Checklist, on file in the Central Records Unit, Room B-099, of the Main Commerce Department building, for a discussion of the margin calculations in the petition). In accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the export price (EP) and normal value (NV) calculations on which the margins in the petition were based.

#### Export Price

With respect to the margins in the petition, EP was based on POI price quotes for the sale of PVA produced by Kuraray to customers in the United States. The petitioners calculated net U.S. prices for PVA by deducting a distributor mark-up, where applicable, and certain movement charges.

For purposes of corroborating the price-to-price calculations in the petition, we compared these prices to U.S. customs data. Using U.S. customs data, we calculated the average U.S. price of imports from all mandatory respondents. We found that the petitioners' price quotes were comparable to the U.S. Customs information. Therefore, we find that the petitioners' information for U.S. price continues to have probative value.

For further discussion, see the April 28, 2003, memorandum to the file from the team entitled “Corroboration of Data Contained in the Petition for Assigning Facts Available Rates” (Corroboration Memo).

#### Normal Value

The petitioners based NV on home market price quotes from Kuraray for PVA of a comparable grade to the products exported to the United States. These price quotes were contemporaneous with the U.S. price quotes used as the basis for EP. In addition, the petitioners alleged that sales of PVA products in the home market were made at prices below the fully absorbed cost of production (COP), within the meaning of section 773(b) of the Act, and requested that the Department conduct a country-wide sales-below-cost investigation. Based upon a comparison of the prices of the foreign like product in the home market to the calculated COP of the product, we found 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 initiated a country-wide cost investigation. Pursuant to section 773(b)(3) of the Act, COP consisted of the cost of manufacture (COM), selling, general and administrative (SG&A) expenses, and packing. The petitioners calculated COP based on the experience of a U.S. PVA producer during the 2001 fiscal year, adjusted for known differences between costs incurred to manufacture PVA in the United States and Japan.

Pursuant to sections 773(a)(4), 773(b) and 773(e) of the Act, the petitioners based NV for sales in Japan on constructed value (CV). The petitioners calculated CV using the same COM, SG&A and financial expense figures used to compute the COP. Consistent with section 773(e)(2) of the Act, the petitioners included in CV an amount for profit. For profit, the petitioners relied upon the amount reported in Kuraray's 2001 financial statements. The petitioners made a circumstance-of-sale adjustment for credit expenses.

The Department was provided with no useful information by the respondents or other interested parties and is aware of no other independent sources of information that would enable us to further corroborate the margin calculations in the petition. Specifically, we attempted to locate both home market prices through publicly available sources and U.S. producer costs upon which CV was

based, but we were unable to do so. *See* the Corroboration Memo.

It is worth noting that the implementing regulation for section 776 of the Act states, “(t)he fact that corroboration may not be practicable in a given circumstance will not prevent the Secretary from applying an adverse inference as appropriate and using secondary information in question.” *See* 19 CFR 351.308(d). Additionally, the SAA at 870 specifically states that where “corroboration may not be practicable in a given circumstance,” the Department need not prove that the facts available are the best alternative information.

Therefore, based on our efforts, described above, to corroborate information contained in the petition, and in accordance with 776(c) of the Act, we consider the margins in the petition to be corroborated to the extent practicable for purposes of this final determination. *See* the Corroboration Memo.

Accordingly, in selecting AFA with respect to Denki Kagaku, Japan VAM & POVAL, Kuraray, and Nippon Gohsei, we have applied the margin rate of 144.16 percent, which is the highest estimated dumping margin set forth in the notice of initiation. *See* the *Initiation Notice*, 67 FR at 61593.

#### All Others

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-average dumping margins established for all exporters and producers individually investigated are zero or *de minimis*, or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated “All Others” rate for exporters and producers not individually investigated. This provision contemplates that we weight-average margins other than zero, *de minimis*, and FA margins to establish the “All Others” rate. Where the data do not permit weight-averaging such rates, the SAA provides that we may use other reasonable methods. *See* SAA at 873. Because the petition contained four estimated dumping margins, we have used these four estimated dumping margins, as adjusted per the notice of initiation, to create an “All Others” rate based on a simple average. Therefore, we have calculated the margin of 76.78 percent as the “All Others” rate. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Final Affirmative Finding of Critical Circumstances: Elastic Rubber Tape from India*, 64 FR 19123, 19124 (Apr. 19, 1999).

#### Analysis of Comments Received

We received no comments from interested parties in response to our preliminary determination. We did not hold a hearing because none was requested.

#### Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend all entries of PVA from Japan, that are entered, or withdrawn from warehouse, for consumption on or after February 20, 2003, the date of publication of our preliminary determination. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These instructions suspending liquidation will remain in effect until further notice.

The dumping margins are provided below:

Manufacturer/exporter	Margin (percent)
Denki Kagaku Kogyo Kabushiki Kaisha .....	144.16
Japan VAM & POVAL Co., Ltd. ....	144.16
Kuraray Co., Ltd. ....	144.16
The Nippon Synthetic Chemical Industry Co., Ltd. ....	144.16
All Others .....	76.78

#### ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing the Customs Service to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

#### Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their

responsibility concerning the 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 pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: April 14, 2003.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 03-9738 Filed 4-18-03; 8:45 am]

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#### DEPARTMENT OF COMMERCE

#### International Trade Administration

[A-557-809]

#### Stainless Steel Butt-Weld Pipe Fittings from Malaysia: Rescission of Antidumping Duty Administrative Review

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

**ACTION:** Notice of Rescission of the antidumping duty administrative review for the period February 1, 2002 through January 31, 2003.

**SUMMARY:** On March 25, 2003, in response to a request made by Schulz (Mfg.) Sdn. Bhd. (“Schulz”), a producer and exporter of the subject merchandise in Malaysia, the Department of Commerce (“Department”) published a notice of initiation of an antidumping duty administrative review on stainless steel butt-weld pipe fittings (“SSBWPF”) from Malaysia, for the period February 1, 2002 through January 31, 2003. Because Schulz has withdrawn its request for review, and there were no other requests for review for this time period, the Department is rescinding this review in accordance with 19 CFR 351.213(d)(1).

**EFFECTIVE DATE:** April 21, 2003.

**FOR FURTHER INFORMATION CONTACT:** James C. Doyle, Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, N.W., Washington, DC 20230; telephone: 202-482-0159.

**SUPPLEMENTARY INFORMATION:**