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A-570-830

Changed Circumstances Review

**Public Document**

GIII/VII: AC-E

MEMORANDUM TO: James J. Jochum  
Assistant Secretary  
for Import Administration

FROM: Joseph A. Spetrini  
Deputy Assistant Secretary  
for Import Administration, Group III

SUBJECT: Issues and Decision Memorandum for the Final Results of the Changed Circumstances Review and Revocation of the Antidumping Order on Coumarin from the People's Republic of China (PRC)

### Summary

We have analyzed the arguments of interested parties in response to Coumarin From the People's Republic of China: Preliminary Results of Changed Circumstances Review and Intent To Revoke the Antidumping Duty Order, 69 FR 3543 (January 26, 2004) (Preliminary Results). As a result of our analysis, our preliminary determination to revoke the antidumping duty order on coumarin from the People's Republic of China effective February 1, 2003, remains unchanged. We recommend that you approve the positions we have developed in the "Discussion of the Issues" section of this memorandum. The sole issue raised by the parties pertains to the proper effective date of the revocation.

### Discussion of the Issue

H. Reynaud & Fils USA Co. (H. Reynaud), a U.S. importer of coumarin, argues that the revocation of the order should be made effective March 2002. H. Reynaud notes that Rhodia closed its New Brunswick, New Jersey plant in May 2002. H. Reynaud contends that coumarin production therefore likely ceased in March 2002. Moreover, H. Reynaud asserts that the cessation of production demonstrated a "lack of interest" on behalf of the domestic producers in accordance with section 351.221(g)(i) of the Department's regulations.<sup>1</sup>

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<sup>1</sup>Section 351.222 (g)(i) of the Department's regulations permits the Secretary to revoke an order when: Producers accounting for substantially all of the production of the domestic like product to which the order (or part of the order to be revoked) or suspended investigation pertains have expressed a lack of interest in the order in whole or in part, or suspended investigation.

Furthermore, H. Reynaud states that it would be inappropriate to maintain the order past March 2002 because doing so unfairly allows Rhodia to continue receiving the antidumping duties collected on the coumarin order under the Continued Dumping and Subsidy Act. Lastly, H. Reynaud argues that having the order in place permits Rhodia to maintain artificially high prices on their French coumarin exports to the United States.

Berjé Incorporated (Berjé) an importer of coumarin from the PRC, argues that the effective date of revocation should be July 1, 2002, because Rhodia admitted to having ceased production by “mid-2002.” As such, the effective revocation date of July 1, 2002 is appropriate. Berjé also notes the inappropriateness of maintaining the relief provided by the order once domestic production has ceased.

Berjé dismisses as irrelevant Rhodia’s claim of continued sales of domestically produced coumarin. In comments submitted prior to the Preliminary Results, Rhodia claimed that it had continued to sell stockpiled U.S.-produced coumarin through at least December 2002. Berjé argues that the Department’s regulations and statute indicate that domestic production is the only commercially relevant factor in evaluating the domestic industry’s “right to relief” under an order.

In addition, Berjé argues the last day of the most recent period for which a review was completed ended before the date on which Rhodia ceased production, therefore, it is unnecessary to align the effective date with the administrative review periods. Berjé states that no administrative review for a subsequent period was requested. Therefore, Rhodia’s entitlement to relief ended July 1, 2002, when production ceased, and thus importers should no longer be subject to antidumping duty liabilities as of that date.

On March 1, 2004, H. Reynaud filed a rebuttal brief in which H. Reynaud reiterated the argument presented in its case brief.

### **Department’s Position**

In the Preliminary Results, we proposed February 1, 2003 as the effective date of revocation for this order because February 1, 2003, is the earliest date for which entries of coumarin have not been subject to an administrative review. Therefore, the Department preliminarily determined that it should revoke, effective February 1, 2003, the antidumping duty order on coumarin from the PRC in whole, pursuant to section 751(b) and (d) and 782(h) of the Act, as well as sections 351.216 and 351.222(g) of the Department’s regulations.

Pursuant to section 782(h)(2) of the Act, the Department may revoke an antidumping or countervailing duty order based on a review under section 751(b) of the Act (*i.e.*, a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. Section 351.222(g) of the Department’s regulations provides that the Department will conduct a changed circumstances

review under section 351.216 of the Department's regulations, and may revoke an order (in whole or in part), if it determines that producers accounting for substantially all of the production of the domestic like product to which the order (or the part of the order to be revoked) pertains have expressed a lack of interest in the relief provided by the order, in whole or in part, or if other changed circumstances exist sufficient to warrant revocation.

The parties agree to revoke the antidumping order on coumarin from the PRC, however the effective date of revocation is in dispute. H. Reynaud contends that Rhodia's domestic coumarin production likely ceased in March 2002. Therefore, H. Reynaud asserts that the cessation of Rhodia's production demonstrated a "lack of interest" in accordance with section 351.221(g)(i) of the Department's regulations, and accordingly, the revocation should be effective in March 2002.

Similarly, Berjé argues that, as Rhodia ceased production by "mid-2002," its entitlement to relief ended July 1, 2002, and no relief should be provided beyond that date. Furthermore, Berjé contends that the most recent period for which a review was completed (February 1, 2001 through January 31, 2002) ended before the date on which Rhodia ceased production ("mid-2002"). Therefore, according to Berjé, it is unnecessary to align the effective date of the revocation with the administrative review periods since no administrative review for a subsequent period was requested.

The Department does not find the revocation dates proposed by Berjé and H. Reynaud to be appropriate for purposes of revoking the antidumping order on coumarin from the PRC. It is the Department's practice to revoke an antidumping duty order so that the effective date of revocation covers entries that have not been subject to a completed administrative review. See e.g., Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled, from Germany: Notice of Final Results of Changed Circumstances Review, Revocation of the Antidumping Duty Order, and Rescission of Administrative Reviews, 67 FR 19551 (April 22, 2002). If an administrative review was not requested, the Department's practice is to revoke the order after the most recent period for which the Department has issued assessment instructions to U.S. Customs and Border Protection. See, e.g. Certain Cut-to Length Carbon-Quality Steel Plate Products from Japan: Final Results of Changed Circumstances Antidumping Duty Administrative Review, and Determination to Revoke the Order in Part, 68 FR 9975 (March 3, 2003) (CTL Plate from Japan).

In the instant case, no administrative review was requested for the administrative review period February 1, 2002 through January 31, 2003. See 19 C.F.R. § 351.213(b). During this period, Rhodia produced coumarin and therefore, was an interested party pursuant to section 771(9)(C) of the Act. Because no review was requested, the Department issued assessment instructions in accordance with section 351.212(c) of the Department's regulations, covering the relevant administrative review period. Because there was production during the period and assessment instructions were sent for that period, we do not find either Berjé's or H. Reynaud's arguments persuasive. It is not contested that Rhodia produced coumarin during the administrative review period in question (February 1, 2002 to January 31, 2003). Thus, Rhodia was appropriately considered a domestic interested party and could

have requested an administrative review for the aforementioned period of review.

Moreover, the parties did not request an administrative review for that period and therefore, automatic assessment instructions were posted on May 29, 2003 in accordance with section 351. 212(c) of the Department's regulations. Thus, February 1, 2003, is the earliest date for which there are unliquidated entries. See CTL Plate from Japan. Therefore, in accordance with Department's practice, February 1, 2003 is the relevant and appropriate effective date for the revocation of the antidumping order on coumarin from the People's Republic of China.

**Recommendation**

Based on our analysis of the comments received, our preliminary determination to revoke the antidumping duty order on coumarin from the People's Republic of China effective February 1, 2003, remains unchanged. If this recommendation is accepted, we will publish the final results of this changed circumstances review and revocation of the antidumping order on coumarin from the PRC in the Federal Register.

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Agree

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Disagree

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James J. Jochum  
Assistant Secretary  
for Import Administration

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Date