

BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-421-817]

Melamine from the Netherlands: Preliminary Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily determines that melamine from the Netherlands is being, or is likely to be, sold in the United States at less than fair value (LTFV). The period of investigation is January 1, 2023, through December 31, 2023.

Interested parties are invited to comment on this preliminary determination.

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Fred Baker, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2924.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 733(b) of the Tariff Act of 1930, as amended (the Act). Commerce published the notice of initiation of this investigation on March 11, 2024.¹ On June 18, 2024, Commerce postponed the preliminary

¹ See *Melamine from Germany, India, Japan, the Netherlands, Qatar, and Trinidad and Tobago: Initiation of Less-Than-Fair-Value Investigations*, 89 FR 17413 (March 11, 2024) (*Initiation Notice*).

determination of this investigation.² On July 22, 2024, Commerce tolled certain deadlines in this administrative proceeding by seven days.³ The deadline for the preliminary determination is now September 18, 2024.

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.⁴ A list of topics included in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Investigation

The product covered by this investigation is melamine from the Netherlands. For a full description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the *Preamble* to Commerce's regulations,⁵ we set aside a period of time, as stated in the *Initiation Notice*, for parties to raise issues regarding product coverage (*i.e.*, scope).⁶ No interested party commented on the scope of the investigation as it appeared in

² *See Melamine from Germany, India, Japan, the Netherlands, Qatar, and Trinidad and Tobago: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 89 FR 52437 (June 24, 2024).

³ *See* Memorandum, "Tolling of Deadlines for Antidumping and Countervailing Duty Proceedings," dated July 22, 2024.

⁴ *See* Memorandum, "Decision Memorandum for the Preliminary Affirmative Determination in the Less-Than-Fair-Value Investigation of Melamine from the Netherlands," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁵ *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁶ *See Initiation Notice*, 89 FR at 17413.

the *Initiation Notice*. Commerce is not modifying the scope language as it appeared in the *Initiation Notice*. See the complete description of the scope in Appendix I to this notice.

Methodology

Commerce is conducting this investigation in accordance with section 731 of the Act. Pursuant to section 776(a) of the Act, Commerce has preliminarily relied upon facts otherwise available to assign an estimated weighted-average dumping margin to OCI Nitrogen, the mandatory respondent in this investigation because OCI Nitrogen did not submit a complete response to Commerce's antidumping duty questionnaire. Further, Commerce preliminarily determines that OCI Nitrogen failed to cooperate by not acting to the best of its ability to comply with a request for information and Commerce is using an adverse inference in selecting from among the facts otherwise available (*i.e.*, applying adverse facts available (AFA)) to this respondent, in accordance with section 776(b) of the Act. For a full description of the methodology underlying our preliminary determination, *see* the Preliminary Decision Memorandum.

All-Others Rate

Sections 733(d)(1)(ii) of the Act provides that, in the preliminary determination, Commerce shall determine an estimated all-others rate for all exporters and producers not individually investigated in accordance with section 735(c)(5) of the Act. Section 735(c)(5)(A) of the Act states that generally the estimated rate for all others shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* rates, and any rates determined entirely under section 776 of the Act. The estimated weighted-average dumping margin in this preliminary determination was determined entirely under section 776 of the Act.

In cases where no weighted-average dumping margins other than zero, *de minimis*, or those determined entirely under section 776 of the Act have been established for individually examined entities, in accordance with section 735(c)(5)(B) of the Act, Commerce typically calculates a simple average of the dumping margins alleged in the petition and applies the results to all other entities not individually examined.⁷

In the Petition,⁸ Cornerstone Chemical Company (the petitioner) alleged two estimated dumping margins for the Netherlands, 34.84 and 72.16 percent. Therefore, consistent with our practice, for the all-others rate in this investigation, we preliminarily assign a simple average of the dumping margins alleged in the Petition, which is 53.50 percent.

Preliminary Determination

Commerce preliminarily determines that the following estimated weighted-average dumping margins exist during the period January 1, 2023, through December 31, 2023:

Exporter/Producer	Weighted-Average Dumping Margin (percent)
OCI Nitrogen B.V.	72.16*
All Others	53.50

*Rate is based on AFA

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of melamine, as described in the “Scope of the Investigation” in Appendix I, from OCI Nitrogen that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in

⁷ See, e.g., *Thermal Paper from Spain: Final Determination of Sales at Less Than Fair Value*, 86 FR 54162, 54163 (September 30, 2021), and accompanying Issues and Decision Memorandum.

⁸ See Petitioner’s Letter, “Melamine from Germany, Japan, the Netherlands, Qatar, and Trinidad and Tobago: Petition for the Imposition of Antidumping Duties,” dated February 14, 2024 (Petition); Petitioner’s Letter, “Petitioner’s Response to Volume V Supplemental Questionnaire (Netherlands Antidumping),” dated February 22, 2024 (Netherlands SQR).

the *Federal Register*. In accordance with section 733(d)(2) of the Act, Commerce will direct CBP to suspend liquidation of all other entries of melamine from the Netherlands, as described in the “Scope of the Investigation” in Appendix I, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. We will also instruct CBP, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), to require a cash deposit equal to the estimated weighted-average dumping margin or the estimated all-others rate, as follows: (1) the cash deposit rate for the respondents listed above will be equal to the company-specific estimated weighted-average dumping margins determined in this preliminary determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the company-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin.

Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a preliminary determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of preliminary determination in the *Federal Register*, in accordance with 19 CFR 351.224(b). However, because Commerce preliminarily applied AFA to the sole mandatory respondent in this investigation, and applied an AFA rate based on the Petition, there are no calculations to disclose.

Consistent with 19 CFR 351.224(e), Commerce will analyze and, if appropriate, correct any timely allegations of significant ministerial errors by amending the preliminary

determination. However, consistent with 19 CFR 351.224(d), Commerce will not consider incomplete allegations that do not address the significance standard under 19 CFR 351.224(g) following the preliminary determination. Instead, Commerce will address such allegations in the final determination together with issues raised in the case briefs or other written comments.

Verification

Because the mandatory respondent in this investigation did not act to the best of its ability to provide information requested by Commerce, and Commerce preliminarily determines the mandatory respondent to be uncooperative, we will not conduct verification.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 14 days after the date of publication of the preliminary determination. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.⁹ Interested parties who submit case briefs or rebuttal briefs in this proceeding must submit: (1) a table of contents listing each issue; and (2) a table of authorities.¹⁰

As provided under 19 CFR 351.309(c)(2) and (d)(2), in prior proceedings we have encouraged interested parties to provide an executive summary of their brief that should be limited to five pages total, including footnotes. In this investigation, we instead request that interested parties provide at the beginning of their briefs a public, executive summary for each issue raised in their briefs.¹¹ Further, we request that interested parties limit their executive

⁹ See 19 CFR 351.309(d); see also *Administrative Protective Order, Service, and Other Procedures in Antidumping and Countervailing Duty Proceedings*, 88 FR 67069, 67077 (September 29, 2023) (*APO and Service Final Rule*).

¹⁰ See 19 CFR 351.309(c)(2) and (d)(2)

¹¹ We use the term “issue” here to describe an argument that Commerce would normally address in a comment of the Issues and Decision Memorandum.

summary of each issue to no more than 450 words, not including citations. We intend to use the executive summaries as the basis of the comment summaries included in the issues and decision memorandum that will accompany the final determination. We request that interested parties include footnotes for relevant citations in the executive summary of each issue. Note that Commerce has amended certain of its requirements pertaining to the service of documents in 19 CFR 351.303(f).¹²

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants and whether any participant is a foreign national; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. An electronically filed hearing request must be received successfully in its entirety via ACCESS by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.

Final Determination

Section 735(a)(1) of the Act and 19 CFR 351.210(b)(1) provide that Commerce will issue the final determination within 75 days after the date of its preliminary determination. Accordingly, Commerce will make its final determination no later than 75 days after the signature date of this preliminary determination.

U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, Commerce will notify the U.S. International Trade Commission (ITC) of its affirmative preliminary determination. If our final

¹² See *APO and Service Final Rule*.

determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

Notification to Interested Parties

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act, and 19 CFR 351.205(c).

Dated: September 18, 2024.

/S/ Ryan Majerus

Ryan Majerus,
Deputy Assistant Secretary
for Policy and Negotiations,
performing the non-exclusive functions and duties
of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise subject to this investigation is melamine (Chemical Abstracts Service (CAS) registry number 108-78-01, molecular formula $C_3H_6N_6$). Melamine is also known as 2,4,6-triamino-s-triazine; 1,3,5-Triazine-2,4,6- triamine; Cyanurotriamide; Cyanurotriamine; Cyanuramide; and by various brand names. Melamine is a crystalline powder or granule. All melamine is covered by the scope of this investigation irrespective of purity, particle size, or physical form. Melamine that has been blended with other products is included within this scope when such blends include constituent parts that have been intermingled, but that have not been chemically reacted with each other to produce a different product. For such blends, only the melamine component of the mixture is covered by the scope of this investigation. Melamine that is otherwise subject to this investigation is not excluded when commingled with melamine from sources not subject to this investigation. Only the subject component of such commingled products is covered by the scope of this investigation.

The subject merchandise is provided for in subheading 2933.61.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading and CAS registry number are provided for convenience and customs purposes, the written description of the scope is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Application of Facts Available, Use of Adverse Inference, and Calculation of All-
Others Rate
- V. Recommendation