

CANTLON Tim

From: REID Joanne
Sent: Monday, 14 September 2009 15:18
To: 'bernhard.marcinowski@basf.com'
Cc: 'Steven J Goldberg'; CANTLON Tim
Subject: Silicone emulsion concrete admixtures (SECA) from the USA
[SEC=UNCLASSIFIED]

Security Classification: UNCLASSIFIED

Bernhard,

My apologies for not getting back to you sooner in relation to your queries of 28 August 2009. Please refer to my response below in blue:

"All of the appendices, except for one, are deleted and not given as indexed figures. Therefore we do not have any idea about the potential injury of the complaining company."

Information required by the application appendices is mostly confidential in nature. The body of the application is designed to include indexed data to allow interested parties to observe the trends in the injury related data. Examples of these indices are found in section A-8 of the public record version of the application. We note however, that the applicant has omitted indices Tables A4-6 (sales quantities), A5-2-1 (applicant's sales quantities) and A5-2-2 (applicant's sales value) from the non-confidential version of the application. Customs and Border Protection will request an explanation from the applicant for its reason to excluding these indices. Replacement pages including the indexed data will be obtained and placed on the public record if appropriate. In the meantime, please refer to the Customs and Border Protection Consideration Report (placed on the Public Record) for an initial assessment of injury claims of the applicant, using data provided in the application.

"Another example is on page 12, "Deleted paragraph, Block Emulsion marketing information". We expect here a meaningful summary, for an "understanding of information contained in a document".

Customs and Border Protection is satisfied that the summary of information provided for this deleted paragraph, when read in conjunction with the summary of information provided for the deleted table A3-3-1, provides an understanding that the deleted information is confidential marketing information in relation to the Australian product, including specific confidential market segment information.

"On page 26, second last paragraph, there is a reference to "a significant increase in the export business". If "the overall figures for block emulsion in appendix A 7 can not precisely present the impacts from the dumped imports", it should be a non-confidential split up for price and volume development on the local and on the export market and Appendix A 7 in an indexed form. Additionally costs of production should be shown for both markets separately, if duty draw back is paid for inward processing for export business."

The application does not provide data in Appendix 7, but does include discussion on other economic impacts from the alleged dumped imports. Customs and Border Protection recognises that it was difficult for the applicant as a small company to complete Appendix A7 for the other economic factors listed. Therefore, it has initiated the investigation based on the applicant's persuasive injury claims including lost sales, profits and profitability, and price suppression. The applicant has provided costs of production for the domestic and export markets in its confidential application at Appendices A6.1 and A6.2. Customs and Border Protection will obtain and verify data required by Appendix A7 during the course of the investigation and ensure non-confidential versions of this data are placed on the public record.

"The reference to "the fall in the Australian Currency" and the overall economic situation within the last 12 months is from the injury perspective "other factors than dumped imports". Due to our understanding, based on this not meaningful non-confidential version, the complaint is mainly based on threat of injury due to the fact that there is "a sharp drop in the operating margins" (page 25) which is normal if a monopolist is confronted with competition."

Customs and Border Protection will investigate whether material injury to the Australian industry has been, is being caused or is threatened because of the dumping of goods from the USA. The application alleged that

the Australian industry has suffered material injury caused by the dumping of product from the USA. As part of its investigation, Customs and Border Protection will consider whether factors other than dumping have caused the injury, if any, suffered by the Australian industry.

Please let me know if you have any further queries.

Regards,

Joanne Reid

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