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Sunset Review 2022
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November 30, 2022

Archroma U.S., Inc.
c/o Christopher Cazenave, Esq.
Jones Walker LLP
201 St. Charles Avenue
New Orleans, LA 70170

RE: Five-Year ("Sunset") Review of the Antidumping Duty Orders on Stilbenic Optical Brightening Agents from China and Taiwan: Rejection of Request for Reconsideration

Dear Mr. Cazenave:

This letter is in response to your submissions of November 11, 2022, and November 17, 2022, on behalf of your client, Archroma U.S., Inc. (Archroma or domestic interested party), in which you request that the U.S. Department of Commerce (Commerce) accept Archroma's untimely filed notices of intent to participate in the above-referenced five-year sunset review proceedings.¹ Commerce is denying your request for the reasons detailed, below.

On October 3, 2022, through its *Initiation Notice* for the underlying proceedings, Commerce notified parties of the participation process.² Specifically, Commerce explained that "Domestic interested parties, as defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b), wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the *Federal Register* of this notice of initiation by filing a notice of intent to participate."³ Thus, Archroma's notices of intent to participate were due no later than October 18, 2022. Because Archroma's submissions was received after the deadline (*i.e.*, on October 24, 2022), we rejected and removed it from the administrative record as untimely.⁴ On November 29, 2022, Commerce received a letter from Teh Fong Min International Co., Ltd. (TFM), a Taiwanese producer and exporter of optical brightening agents (OBAs), requesting

¹ See Archroma's Letter, "Request for Reconsideration of Denial of Archroma's Request for Leave to File Late Notice of Intent to Appear; *Sunset Review of the Antidumping Order on Stilbenic Optical Brightening Agents from China and Taiwan; Institution of Five Year Reviews*," dated November 11, 2022 (Archroma's Request for Reconsideration) and Archroma's Letter, "Supplement to November 11, 2022 Request for Reconsideration of Denial of Archroma's Request for Leave to File Late Notice of Intent to Appear; *Sunset Review of the Antidumping Order on Stilbenic Optical Brightening Agents From China and Taiwan; Institution of Five-Year Reviews*," dated November 17, 2022 (Archroma's Supplement).

² See *Initiation of Five-Year (Sunset) Reviews*, 87 FR 59779 (October 3, 2022) (*Initiation Notice*).

³ *Id.* at 59780.

⁴ See Commerce's Letter, "Five-Year ("Sunset") Review of the Antidumping Duty Orders on Stilbenic Optical Brightening Agents from China and Taiwan: Rejection of Notice of Intent to Participate," dated October 28, 2022. (Commerce's Rejection Letter)

that the review be terminated with respect to OBAs from Taiwan and the order be revoked because the petitioner did not file a notice of intent to participate by October 18, 2022.⁵

In its Request for Reconsideration, Archroma fails to provide any *new* information for Commerce to revisit that decision or grant an extension of time (*i.e.*, extraordinary circumstances) to file its notice of intent. Instead, Archroma relies on the effect that revocation of the orders may have on the domestic industry and claims that “the deadline was missed inadvertently.”⁶ Archroma’s reasons, however, are unavailing. As an initial matter, the *Initiation Notice* indicates that “if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, Commerce will automatically revoke the order without further review.”⁷ Furthermore, as Archroma concedes, it was familiar with Commerce’s deadlines and requirements (especially those related to Sunset Reviews); Archroma participated in all administrative reviews and the first sunset review of the orders.

Moreover, contrary to Archroma’s argument that Commerce lacks the statutory authority to initiate the sunset review until October 22, 2022, as Commerce’s regulations at 19 CFR 351.218(c)(2) indicate, “**no later** than 30 days before the fifth anniversary of the last determination by the Commission to continue the order...the Secretary will publish a notice of initiation of a sunset review.”⁸ Here, the U.S. International Trade Commission’s (ITC’s) determination notice published on November 1, 2017.⁹ Thirty days before the fifth anniversary of the ITC’s last determination is Sunday, October 2, 2022; therefore, the Secretary’s initiation of the sunset review on October 3, 2022, is timely.¹⁰

Finally, Archroma contends that we should ensure consistency with the Biden Administration’s trade policy, the intent of which is to ensure U.S. industry is protected against unfairly traded imports and ensure a level-playing field in the domestic market. Archroma’s attempt to shift the burden on the agency is misguided. As explained, above, Archroma was responsible for submitting its notices of intent to participate by the 15-day deadline, and it failed to do so. Commerce must comply with the laws governing the agency (*i.e.*, the code of federal regulations and the Tariff Act of 1930, as amended), and implement the trade laws and regulations in a fair and transparent manner.

⁵ See TFM’S Letter, “Certain Stilbenic Optical Brightening Agents (CSOBA) from Taiwan,” dated November 29, 2022.

⁶ See Archroma’s Request for Reconsideration at page 15.

⁷ See *Initiation Notice*, 87 FR 59779 (October 3, 2022).

⁸ 19 CFR 351.218(c)(2).

⁹ See *Certain Stilbenic Optical Brightening Agents from China and Taiwan; Determinations*, 82 FR 50678 (November 1, 2017).

¹⁰ In accordance with Commerce’s practice, where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day. See *Notice of Clarification: Application of “Next Business Day” Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

If you have questions regarding this matter, please contact Mary Kolberg at (202) 482-1785.

Sincerely,

A handwritten signature in black ink, appearing to be 'AN', with a stylized flourish extending to the right.

Aleksandras Nakutis
Program Manager, Office I
Antidumping and Countervailing Duty Operations