

supplemental questionnaire responses and for the Department to analyze the respondents' data and seek additional data, if necessary, prior to the issuance of the preliminary determination.

For the reasons identified by the petitioners, and because there are no compelling reasons to deny the request, we are postponing the preliminary determination under section 733(c)(1) of the Act. We will make our preliminary determination no later than December 12, 2001.

This notice is published pursuant to sections 733(f) and 777(i) of the Act.

Dated: October 18, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-867]

Notice of Amended Preliminary Antidumping Duty Determination of Sales at Less Than Fair Value: Automotive Replacement Glass Windshields From the People's Republic of China

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

ACTION: Amended preliminary antidumping duty determination of sales at less than fair value.

EFFECTIVE DATE: October 24, 2001.

FOR FURTHER INFORMATION CONTACT:
Stephen Bailey, AD/CVD Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1102.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations for the Tariff Act of 1930, as amended ("the Act"), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

Scope of the Investigation

The products covered by this investigation are automotive

replacement glass ("ARG") windshields, and parts thereof, whether clear or tinted, whether coated or not, and whether or not they include antennas, ceramics, mirror buttons or VIN notches, and whether or not they are encapsulated. ARG windshields are laminated safety glass (*i.e.*, two layers of (typically float) glass with a sheet of clear or tinted plastic in between (usually polyvinyl butyral)), which are produced and sold for use by automotive glass installation shops to replace windshields in automotive vehicles (*i.e.*, passengers cars, light trucks, vans, sport utility vehicles, etc.) that are cracked, broken or otherwise damaged.

ARG windshields subject to this investigation are currently classifiable under subheading 7007.21.10.10 of the Harmonized Tariff Schedules of the United States (HTSUS). Specifically excluded from the scope of this investigation are laminated automotive windshields sold for use in original assembly of vehicles. While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

As discussed in our notice of initiation, the scope of this investigation poses unique problems of administration. For the final determination, we continue to invite parties to provide information on physical characteristics which would allow U.S. Customs officials to distinguish between ARG windshields, and windshields for new automobiles. We also invite comments on procedures for administering any order which may result from this investigation on the basis of end use. Finally, information on the record shows that all windshields imported from the PRC during the POI were ARG windshields; consequently, we note that even if the scope of this order were to cover all windshields, the Department would have all the information necessary to make a final determination.

Amendment of Preliminary Determination

On September 10, 2001, the Department of Commerce ("the Department") preliminary determined that ARG windshields from the People's Republic of China ("PRC") is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 735(a) of the Tariff Act. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields from*

the People's Republic of China, 66 FR 48233 (September 19, 2001).

On September 21, 2001, respondent, Fuyao Glass Industry Group Company, Ltd. ("FYG") and petitioners timely filed allegations that the Department made ministerial errors in the final determination.

The Department is amending the preliminary determination in the antidumping investigation of ARG windshields from the PRC only for FYG.

Significant Ministerial Error

A significant ministerial error is defined as an error, the correction of which, singly or in combination with other errors, would result in (1) a change of at least five absolute percentage points in, but not less than 25 percent of, the weighted-average dumping margin calculated in the original (erroneous) preliminary determination; or (2) a difference between a weighted-average dumping margin of zero or de minimis and a weighted-average dumping margin of greater than de minimis or vice versa. See 19 CFR 351.224(g).

FYG's Allegations of Ministerial Errors by the Department

Comment 1: FYG argues that the Department incorrectly calculated constructed export price ("CEP") profit. FYG argues that the CEP profit ratio, calculated by the Department, should be multiplied by U.S. selling expenses to derive CEP profit. FYG points out that the Department incorrectly multiplied the CEP profit ratio by gross unit price. FYG cites section 772(d)(3) of the Act and *DOC Policy Memo 97/1* in arguing that the CEP profit ratio must be multiplied by U.S. Selling expenses, not gross unit price.

Department's Position: We are with FYG. The Department's practice is to multiply the CEP profit ratio by U.S. selling expenses. The Department will change the calculation for the final determination by multiplying the CEP profit rate by U.S. selling expenses. The correction of this error in combination with the correction of the other errors would result in a margin of 3.04 percent. This is more than five percentage points different from and more than 25 percent of the weighted-average dumping margin calculated in the preliminary determination (9.79%). Accordingly, the error alleged by respondent is a significant ministerial error within the meaning of 19 CFR 351.224(g)(1).

Comment 2: FYG alleges that the Department double counted molding. FYG argues that the Department deducted an amount from U.S. price to

account for molding purchases made in the U.S. and shipped directly to FYG's U.S. customer. FYG argues that the Department should not deduct an amount for molding from U.S. price when molding is sourced from Taiwan. FYG argues that they provided a ratio for control numbers ("CONNUM") for which molding was purchased and that the Department should use this ratio to allocate molding purchases from U.S. suppliers.

Department's Position: The Department does not agree that this is a ministerial error. FYG reported in its June 25, 2001 response at 8, that it had no way to distinguish between those sales which used molding sourced in the United States (and shipped directly to the U.S. customer), and those sales which used molding purchased from the United States and shipped to China (to be included in the shipment). The Department, therefore, made an adjustment for molding for all U.S. sales. Therefore, we are not making the suggested correction because the alleged error is not an unintentional error covered by the ministerial error provision.

Comment 3: FYG alleges that the Department failed to correctly calculate the freight expense for the input of coal. Citing the Factors of Production Memorandum ("FOP Memo") at 20, FYG maintains that the Department should use the shorter of the distance from the domestic supplier to FYG's factory or the distance from the nearest seaport to FYG's factory (*See Sigma Corp. v. United States*, 117 F. 3d 1401 (Fed. Cir. 1997)). FYG argues that the Department calculated distance using the "Sigma" freight distance, and should have instead used the actual distance from the supplies to FYG's factory, which is shorter than the distance between the port and FYG's factory.

Department's Position: We agree with FYG and have used the actual distance between the coal supplier and FYG's factory. We have revised the freight input calculation to reflect this correction. The correction of this error in combination with the correction of the other errors would result in a margin of 3.04 percent. This is more than five percentage points different from and more than 25 percent of the weighted-average dumping margin calculated in the preliminary determination (9.79%). Accordingly, the error alleged by respondent is a significant ministerial error within the meaning of 19 CFR 351.244(g)(1).

Comment 4: FYG alleges that the Department made a ministerial error by improperly deducting a molding cost for

a CONNUM that in fact included no molding. Citing Exhibit 6 of its August 15, 2001 submission, FYG argues that the data provided in this exhibit contained a CONNUM that should not have been merged into the U.S. and FOP dataset. FYG argues that the seventh digit in the CONNUM denotes that no molding was sold with this particular model and, therefore, sales with this CONNUM should not have a molding deduction.

Department's Position: The Department does not agree that this is a ministerial error. The Department relied on FYG's August 15, 2001 submission which shows that for the CONNUM in question, market economy molding purchases occurred. The Department relied on FYG's response in preparing the calculations and it is not evident that the CONNUM in question did not in fact have molding purchases. Therefore, we are not making the suggested correction because the alleged error is not an unintentional error covered by the ministerial error provision.

Comment 5: FYG alleges that the Department made a ministerial error by incorrectly failing to add selling, general and administrative ("SG&A") costs to the cost of manufacture ("COM") in calculating cost of production ("COP"). Citing FOP Memo at 17, FYG points out that the Department intended to calculate COP by summing materials, energy, labor, overhead, and selling, general and administrative expenses ("SG&A"). FYG argues that the COP figure did not include costs associated with SG&A, only materials, energy, labor and overhead.

Department's Position: The Department agrees that this is a ministerial error. The Department normally adds SG&A to COM to derive COP, which we failed to do in this case. The correction of this error in combination with the correction of the other errors would result in a margin of 3.04 percent for FYG. This is more than five percentage points different from and more than 25 percent of the weighted-average dumping margin calculated in the preliminary determination (9.79%). Accordingly, the error alleged by respondent is a significant ministerial error within the meaning of 19 CFR 351.224(g)(1).

Comment 6: FYG alleges that the Department used an outdated labor rate in calculating inputs. Citing 1998 *Yearbook of Labour Statistics* and the Department's regression-based analysis posted on its Web site, FYG argues that the labor rate used in the preliminary determination is outdated, compared with a more contemporaneous labor rate

for 1999 now listed on the Department's Web site.

Department's Position: The Department does not agree that this is a ministerial error. The Department used information available at the time of the preliminary determination and at that time listed on its website. Labor rates for 1999 were not available to the Department at the time of the preliminary determination. Therefore, we are not making the suggested correction because the alleged error is not an unintentional error covered by the ministerial error provision.

Petitioner's Allegations of Ministerial Errors by the Department

Comment 7: Petitioners allege that the Department made a ministerial error in the value it assigned to the second panel of glass of FYG's solar windshields. Citing FYG's June 25, 2001 submission at 11, petitioners point out that FYG reported it uses one pane of standard float glass and one pane of solar glass when it constructs a solar windshield. Petitioners argue that the Department should treat standard float glass as clear float glass, instead of colored float glass.

Department's Position: The Department does not agree that this is a ministerial error. FYG explained that standard float glass was used along with a solar panel in the construction of solar windshields. The Department does not consider this record information to be sufficient to make a determination that standard glass is clear glass. The Department also notes that FYG uses a small amount of clear glass in producing subject merchandise. The Department plans to examine this information more closely at verification. Therefore, we are not making the suggested correction because the alleged error is not an unintentional error covered by the ministerial error provision.

Comment 8: Petitioners allege that the Department made a ministerial error in the values it assigned to Xinyi Automotive Glass (Shenzhen) Company, Ltd.'s ("Xinyi") PVB. Citing the FOP Memo at 7, petitioners point out that Attachment 4 to the FOP Memo lists the value for clear PVB and shaded PVB differently than those listed on page 7 of the FOP memo. Petitioners argue that the values listed for clear PVB and shaded PVB should be reversed.

Department's Position: The Department agrees that this is a ministerial error. The Department found that the values calculated for clear and shaded PVB in the FOP Memo were reversed. The Department found that after correction of this error, Xinyi's margin remains de minimis. Accordingly, the error alleged by

respondent is not a significant ministerial error within the meaning of 19 CFR 351.224(g)(1) or (2) and we are not issuing an amended preliminary determination. The Department of Commerce will, however, correct this error for the final determination.

Comment 9: Petitioners allege that the Department made a ministerial error by using the incorrect Wholesale Price Index ("WPI") value for December 2000. Citing *International Financial Statistics* ("IFS"), May 2001, petitioners argue that the Department used a preliminary value listed in this publication, instead of using the final WPI for December 2000 as it is listed in the IFS for July 2001. Petitioners also argue that the WPI listed for December 2000 was in bold to indicate that it is preliminary. Petitioners also maintain that the WPI for other periods used by the Department (April 2000–December 2000, April 1998–March 1999, 1997, and 1996) do not match what is reported in the July 2001 edition of IFS.

Department's Position: The Department does not agree that this is a ministerial error. Contrary to petitioners' argument, the December 2000 WPI was not bolded (denoting a preliminary number) in the May 2001 issue of IFS used by the Department. The Department utilized the most recent information on the record at the time of the preliminary determination. June WPI data were not available. In regard to the other claimed inaccuracies listed above, petitioners derive different WPI's due to rounding differences. Therefore, we are not making the suggested correction because the alleged error is not an unintentional error covered by the ministerial error provision.

Comment 10: Petitioners allege that the Department made a ministerial error by using a 1992 WPI base for data collected from the period November 1991 through April 1992 in calculating an average value in Rupees per metric ton value for domestic inland insurance. Citing the Department's Web site (<http://www.ia.ita.doc.gov/factorv/prc/#SourceIndex>), which shows the average value in Rupees per metric ton, petitioners argue that the period of data used to calculate the average value in Rupees per metric ton should coincide with the period November 1991 through April 1992, and not the 1992 time period, as used by the Department. Petitioners also argue that the Department should have used the adjusted base year figure for 1992.

Department's Position: The Department does not agree that this is a ministerial error. The Department considers the argument by petitioners to be one of methodology and not

ministerial. Therefore, we are not making the suggested correction because the alleged error is not an unintentional error covered by the ministerial error provision. However, the Department will examine both issues mentioned above more closely for the final determination.

Comment 11: Petitioners allege that the Department made a ministerial error by including labor expenses, both direct and indirect, incurred by surrogate company Saint-Gobain Sekurit India Limited ("St. Gobain") in the Department's calculation of the financial ratio for factory overhead and ultimately in the SG&A ratio. Petitioners argue that inclusion of total labor from St. Gobain in the calculation of factory overhead by the Department is incorrect because doing so would include not only direct, but indirect labor in the total COM.

Department's Position: The Department does not agree that this is a ministerial error. The Department regards its decision to account for labor in the build-up of COM as one of selected methodology. Based on the information available to the Department, there was no way to distinguish between indirect and direct labor in reviewing St. Gobain's financial statement. The Department also took into consideration that a majority of the labor reported in St. Gobain's financial statement, absent information to the contrary, is more likely to be direct labor. Therefore, we are not making the suggested correction because the alleged error is not an unintentional error covered by the ministerial error provision.

We are amending the preliminary results of the antidumping duty investigation of ARG from the PRC to reflect the correction of the above-cited ministerial errors. The revised final weighted-average dumping margins are as follows:

Exporter/ manufacturer	Original weighted average margin percent	Revised weighted average margin percent
FYG	9.79	3.04
All Others Rate	9.79	3.04

Suspension of Liquidation

In accordance with section 635(c)(1)(B) of the Act, we are directing the United States Customs Service ("Customs") to continue suspending liquidation on all imports of the subject merchandise from the PRC. Customs shall require a cash deposit or the posting of a bond equal to the weighted-

average amount by which normal value exceeds the export price as indicated in the chart above. These suspension-of-liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 635(d) of the Act, we have notified the International Trade Commission of our amended final determination.

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

Dated: October 17, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs ("OETCA"), International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT:

Vanessa M. Bachman, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, by telephone at (202) 482-5131 (this is not a toll-free number) or e-mail at oetc@ita.doc.gov.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.