DEPARTMENT OF COMMERCE

International Trade Administration

(A–583–840)

Notice of Preliminary Determination of Sales at Not Less Than Fair Value and Postponement of Final Determination: Polyethylene Terephthalate (PET) Resin from Taiwan

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

ACTION: Notice of negative preliminary determination of sales at less than fair value and extension of final determination.

EFFECTIVE DATE: October 28, 2004.

FOR FURTHER INFORMATION CONTACT: Daniel O'Brien or Ashleigh Batton at (202) 482–1376 or (202) 482–6309, respectively; AD/CVD Enforcement, Office 1, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We preliminarily determine that imports of PET Resin from Taiwan are not being sold, or are not likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the *Suspension of Liquidation* section of this notice.

Interested parties are invited to comment on this preliminary determination. Since we are postponing the final determination, we will make our final determination not later than 135 days after the date of publication of this preliminary determination in the **Federal Register**.

Petitioner

The petitioner in this investigation is the United States PET Resin Producers Coalition (the petitioner).[1]

Case History

This investigation was initiated on April 13, 2004. *See Notice of Initiation of Antidumping Duty Investigation: Bottle–Grade Polyethylene Terephthalate (PET) Resin from India, Indonesia, Taiwan, and Thailand*, 69 FR at 21082 (April 20, 2004) (*Initiation Notice*). Since the initiation of the investigation, the following events have occurred.

The Department of Commerce (the Department) set aside a period for all interested parties to raise issues regarding product coverage. *See Initiation Notice*, 69 FR at 21083. No responses were received.

On May 10, 2004, the Department issued a letter providing interested parties an opportunity to comment on the Department's proposed model match characteristics and its hierarchy of characteristics. Between May 17, 2004, and June 3, 2004, the Department received comments and/or rebuttal comments on model matching from the petitioner, Far Eastern Textiles, Reliance Industries Ltd., South Asian Petrochem Ltd. and P.T. Indorama Synthetics. The Department took these comments into consideration in developing the model matching characteristics and hierarchy for all of the PET Resin antidumping investigations.

On May 19, 2004, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of the products subject to this investigation are materially injuring an industry in the United States producing the domestic like product. *See Polyethylene Terephthalate (PET) Resin from India, Indonesia, Taiwan, and Thailand*, 69 FR at 28948 (May 19, 2004) (ITC Preliminary Determination).

On June 9, 2004, the Department issued its antidumping duty questionnaire to Far Eastern Textile Ltd. (Far Eastern), specifying that the responses to Section A and Sections B–C would be due on June 30, 2004, and July 16, 2004, respectively.[2] We received responses to Sections A–C of the antidumping questionnaire and issued supplemental questionnaires where appropriate. On August 3, 2004, we received an allegation of sales below cost from the petitioner. On September 1, 2004, pursuant to section 732(e) of the Act, the Department initiated a cost investigation for Far Eastern's Taiwanese sales of PET Resin.[3] Far Eastern submitted its response to Section D on September 24, 2004.

On June 30, 2004, the petitioner requested that the Department postpone the preliminary determination in this investigation. Because there were no compelling reasons to deny the request, we postponed the preliminary determination to October 20, 2004, under section 733(c)(1) of the Act. *See Notice of Postponement of Preliminary Antidumping Duty Determinations: Bottle–Grade Polyethylene Terephthalate (PET) Resin from India, Indonesia, Taiwan, and Thailand*, 69 FR 48842, (August 11, 2004).

Postponement of Final Determination

Section 735(a)(2)(B) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. On October 6, 2004, we received a request to postpone the final determination from the petitioner, the United States PET Resin Producers Coalition. Since this preliminary determination is negative, and there is no compelling reason to deny the petitioner's request, we have extended the deadline for issuance of the final determination until the 135th day after the date of publication of this preliminary determination in the **Federal Register**.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Act permits the Department to investigate either: 1) a sample of exporters, producers, or types of products that is statistically valid, based on the information available at the time of selection; or 2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined. In the petition, the petitioner identified three potential producers and exporters of PET Resin in Taiwan: Shinkong Synthetic Fibers Corporation, Far Eastern, and Hualon Corporation.

[1] The petitioner in this investigation is the United States PET Resin Producers Coalition, an *ad hoc* coalition of the four largest U.S. PET resin producers that includes: DAK Americas, LLC; Nan Ya Plastics Corporation America; Voridian; and Wellman, Inc.

[2] Section A of the questionnaire requests general information concerning the company corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production of the foreign like product and the constructed value of the merchandise under investigation. Section E requests information on further manufacturing.

[3] *See Memorandum to Susan Kuhbach, Re: Investigation of Polyethylene Terephthalate Resin from Taiwan: Petitioner's Allegation of Sales Below the Cost of Production for Far Eastern Textile*, dated August 27, 2004.

Based on statistics obtained from U.S. Customs and Border Protection (CBP), the Department selected Far Eastern as the mandatory respondent.[4] On June 9, 2004, the Department issued an antidumping questionnaire to Far Eastern.

Period of Investigation

The Period of Investigation (POI) is January 1, 2003, through December 31, 2003. This period corresponds to the four most recent fiscal quarters prior to the month of filing of the petition in March 2004.

Scope of Investigation

For the purpose of this investigation, the product covered by this scope is bottle–grade PET resin, defined as having an intrinsic viscosity of at least 0.68 deciliters per gram but not more than 0.86 deciliters per gram. The scope includes bottle–grade PET resin that contains various additives introduced in the manufacturing process.

The scope does not include post–consumer recycle (PCR) or post–industrial recycle (PIR) PET resin; however, included in the scope is any bottle–grade PET resin blend of virgin PET bottle–grade resin and recycled PET (RPET). Waste and scrap PET is outside the scope of the investigation. Fiber–grade PET resin, which has an intrinsic viscosity of less than 0.68 deciliters per gram is also outside the scope of the investigation.

The bottle–grade PET resin products subject to this investigation are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) at subheadings 3907.60.0100 and 3907.60.0050. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Scope Comments

In accordance with the preamble to our regulations (*see Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*. We did not receive any scope comments from interested parties within the comment period.

[4] See Memorandum from Constance Handley, Program Manager, to Susan Kuhbach, Director of Office 1, RE: Selection of Respondents, dated May 12, 2004.

Product Comparisons

In accordance with section 771(16) of the Act, all products produced by the respondents covered by the description in the *Scope of Investigation* section, above, and sold in Taiwan during the POI, are considered to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We have relied on four criteria to match U.S. sales of subject merchandise to comparison–market sales of the foreign like product: 1) Intrinsic Viscosity; 2) Blend; 3) Copolymer/Homopolymer; and 4) Additives. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product made in the ordinary course of trade.

Date of Sale

In its questionnaire responses, Far Eastern reported home market sales using shipping date as the date of sale because the ship date precedes the invoice date; invoices are issued in the home market after the product has shipped. Based on the description of the sales process provided by Far Eastern, and in keeping with Department practice, we used the date of shipment as the date of sale for all home market sales. [5] For U. S. sales, Far Eastern reported the customs clearance date as date of sale. The customs clearance date precedes the invoice date by 2 to 4 days; again, the product is invoiced once it has left the factory. For sales where the ship date occurred before the customs clearance date, we used the shipping date as the date of sale.

Fair Value Comparisons

To determine whether sales of PET resin were made in the United States at LTFV, we compared the export price (EP) to the normal value (NV), as described in the Export Price and Normal Value sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted–average EPs. We compared these to weighted–average home market prices in Taiwan.

Export Price

For the price to the United States, we used EP, as defined in section 772(a) of the Act. Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold before the date of importation by the producer or exporter outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection 772(c) of the Act.

In accordance with section 772(c)(2) of the Act, for EP sales, we made deductions from the starting price for movement expenses, discounts, billing adjustments, export taxes, duties, and rebates, where appropriate.

We deducted inland freight from the plant/warehouse to port of exit, brokerage and handling, harbor construction fee in the country of manufacture, trade promotion fee in the country of manufacture, international freight, marine insurance, brokerage and handling incurred in the United States, U.S. inland freight from port to warehouse, U.S. warehousing expense, and U.S. customs duty.

Normal Value

A. Selection of Comparison Markets

Section 773(a)(1) of the Act directs the Department to calculate NV based on the price at which the foreign like product is sold in the home market, provided that the merchandise is sold in sufficient quantities (or value, if quantity is inappropriate), and that there is no particular market situation that prevents a proper comparison with the EP or CEP. Under the statute, the Department will normally consider quantity (or value) insufficient if it is less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States. We found that Far Eastern had a viable home market for PET resin. As such, Far Eastern submitted home market sales data for the calculation of NV.

In deriving NV, we made adjustments as detailed in the following Calculation of Normal Value Based on Home Market Prices section.

B. Cost of Production Analysis

Based on allegations contained in the petition, and in accordance with section 773(b)(2)(A)(i) of the Act, we found reasonable grounds to believe or suspect that PET resin sales were made in Taiwan at prices below the cost of production (COP). *See Memorandum to Susan Kuhbach from Ashleigh Batton and Daniel O'Brien re. Petitioner's Allegation of Sales Below the Cost of Production for Far Eastern Textile*, dated August 27, 2004. As a result, the Department is conducting an

[5] *See, e.g., Synthetic Indigo From the People's Republic of China; Notice of Final Determination of Sales at Less Than Fair Value, 65 FR 25706 (May 3, 2000) and accompanying Decision Memorandum at Comment 11; Final Results of Antidumping Administrative Review: Stainless Steel Bar From Japan, 65 FR 13717 (March 14, 2000) and accompanying Decision Memorandum at Comment 1.*

investigation to determine whether Far Eastern made home market sales at prices below their respective COPs during the POI within the meaning of section 773(b) of the Act. We conducted the COP analysis described below.

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated a weighted–average COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for the home market G&A expenses, including interest expenses and packing expenses. We relied on the COP data submitted by Far Eastern in its cost questionnaire responses except for the following adjustments:

a. We adjusted the reported cost of manufacture (COM) to reflect the highest of transfer price, market price and affiliated suppliers' COP for the inputs purchased from affiliated suppliers;

b. We based Far Eastern's G&A expense ratio on Far Eastern's company–wide data rather than its divisional data as submitted.

2. Test of Home Market Sales Prices

We compared the weighted–average COP for Far Eastern to its home–market sales prices of the foreign like product, as required under section 773(b) of the Act, to determine whether these sales had been made at prices below the COP within an extended period of time (i.e., a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time.

On a model–specific basis, we compared the revised COP to the home market prices, less any applicable movement charges, discounts, rebates, and direct and indirect selling expenses.

3. Results of the COP Test

Where 20 percent or more of a respondent's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in ''substantial quantities'' within an extended period of time in accordance with section 773(b)(2)(B) of the Act. In such cases, because we compared prices to POI average costs, pursuant to section 773(b)(2)(D) of the Act, we also determined that such sales were not made at prices that would permit recovery of all costs within a reasonable period of time. We found that Far Eastern made sales below cost and we disregarded such sales where appropriate.

C. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the EP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). *See* 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.; see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut–to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the ''chain of distribution''),[6] including selling functions,[7] class of customer (''customer category''), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices[8]) we consider the starting prices before any adjustments.

When the Department is unable to match U.S. sales to sales of the foreign like product in the comparison market at the same LOT as the EP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP sales at a different LOT in the comparison market, where available data make it practicable, we make an LOT adjustment under section 773(a)(7)(A) of the Act.

We obtained information from Far Eastern regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed by Far Eastern for each channel of distribution. Our LOT findings are summarized below.

Far Eastern reported that it sells to end users and traders in the home market, and to U.S. end users and wholesalers. Far Eastern reported a single LOT in the home market and has not requested an LOT adjustment. We examined the information reported by Far Eastern and found that home market sales to both customer categories were identical with respect to sales process, freight services, warehouse/inventory maintenance, advertising activities, technical service, and warranty service. Accordingly, we preliminarily find that Far Eastern had only one LOT for its home market sales.

Far Eastern made only EP sales to the United States during the POI. The EP sales were all made through the same channel of distribution (*i.e.*, sales from the manufacturer directly to the customer). The EP selling activities differ slightly from the home market selling activities. In determining whether separate LOTs exist between U.S. EP sales and home–market sales, we examined the selling functions in the distribution chains and customer categories reported in both markets. Far Eastern's sales to end–users and traders in the homemarket and in the U.S. market do not involve significantly different selling functions. Therefore, we find that the U.S. LOT is similar to the home market LOT and an LOT adjustment is not necessary. *See* section 773(a)(7)(A) of the Act.

D. Calculation of Normal Value Based on Home Market Prices

We determined NV for Far Eastern as follows. We made adjustments for any differences in packing and deducted home market movement expenses, rebates, and discounts pursuant to sections 773(a)(6)(A) and 773(a)(6)(B)(ii) of the Act. In addition, where applicable in comparison to EP transactions, we made adjustments for differences in circumstances of sale (COS) pursuant to section 773(a)(6)(C)(iii) of the Act. We made COS adjustments for Far Eastern's EP transactions by deducting direct selling expenses incurred for home market sales (*e.g.*, credit expense and warranty expenses) and adding U.S. direct selling expenses (*e.g.*, credit expenses, and bank charges).

Currency Conversions

We made currency conversions into U.S. dollars in accordance with section 773A of the Act based on exchange rates in effect on the dates of the U.S. sale, as obtained from the Federal Reserve Bank (the Department's preferred source for exchange rates).

[6] The marketing process in the United States and home market begins with the producer and extends to the sale to the final user or customer. The chain of distribution between the two may have many or few links, and the respondent's sales occur somewhere along this chain. In performing this evaluation, we considered the respondent's narrative response to properly determine where in the chain of distribution the sale occurs.

[7] Selling functions associated with a particular chain of distribution help us to evaluate the level(s) of trade in a particular market. For purposes of this preliminary determination, we have organized the common selling functions into four major categories: sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services.

[8] Where NV is based on constructed value (CV), we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, G&A and profit for CV, where possible.

Verification

In accordance with section 782(i) of the Act, we intend to verify all information relied upon in making our final determination for Far Eastern.

The weighted–average dumping margins are provided below:

Producer/Exporter	Weighted–Average Margin (Percentage)
Far Eastern	0.09
All Others	0.09

Suspension of Liquidation

Pursuant to Section 733(b)(3) of the Act, because the estimated weighted–average dumping margin for the examined company is de minimis, we are not directing CBP to suspend liquidation of entries of PET resin from Taiwan.

Disclosure

The Department will disclose its calculations in accordance with 19 CFR 351.224(b).

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary negative determination. If the final determination in this proceeding is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of PET resin from Taiwan is materially injuring, or threatens material injury to, the U.S. industry.

Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs on the later of 50 days after the date of publication of this notice or one week after the issuance of the verification reports. *See* 19 CFR 351.309(c)(1)(i). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days after the deadline for the submission of case briefs. *See* 19 CFR 351.309(d). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette.

In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. If a request for a hearing is made, we will tentatively hold the hearing two days after the deadline for submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. Requests should contain: 1) the party's name, address, and telephone number; 2) the number of participants; and 3) a list of the issues to be discussed. At the hearing, oral presentations will be limited to issues raised in the briefs. *See* 19 CFR 351.310(c). The Department will make its final determination no later than 135 days after the date of publication of this preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: October 20, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 04–24095 Filed 10–27–04; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–423–809]

Stainless Steel Plate in Coils from Belgium; Extension of Time Limit for the Final Results of Sunset Review of Countervailing Duty Order

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

ACTION: Notice of Extension of Time Limit for the Final Results of Sunset Review of Countervailing Duty Order: Stainless Steel Plate in Coils from Belgium.

SUMMARY: The Department of Commerce (''the Department'') is extending the time limit for its final results in the sunset review of the countervailing duty order on stainless steel plate in coils (''SSPC'') Belgium. The Department intends to issue the final results of this sunset review on or about October 28, 2004.

EFFECTIVE DATE: October 28, 2004.

FOR FURTHER INFORMATION CONTACT: Hilary Sadler, Esq., Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4340.

Extension of Final Results of Reviews:

In accordance with section 751(c)(5)(B) of the Tariff Act of 1930, as amended (''the Act''), the Department may extend the time for making a determination in a sunset review if the review is ''extraordinarily complicated.'' The Department may treat sunset reviews as extraordinarily complicated if the issues are complex, in accordance with section 751(c)(5)(C)(ii) of the Act. As discussed below, the Department has determined that this review is extraordinarily complicated and is therefore extending the deadline for issuing the final results.

On April 1, 2004, the Department initiated a sunset review of the countervailing duty order on SSPC from Belgium. *See Initiation of Five–Year (Sunset) Reviews*, 69 FR 17129 (April 1, 2004). The Department, in this proceeding, determined that it would conduct an expedited sunset review of this order based on inadequate responses to the notice of initiation from respondent interested parties. The Department's final results of this review were originally scheduled for July 30, 2004 and were extended on July 29, 2004 and on September 20, 2004. The Department, however, needs additional time to consider complex issues related to the appropriate countervailing duty rate likely to prevail if the order is revoked. Specifically, the Department is considering issues surrounding the allocation periods of certain programs. Thus, because of the complex issues in this proceeding , the Department will extend the deadline for issuance of the final results. The Department intents to issue the final results on or about October 28, 2004, in accordance with sections 751(c)(5)(B) and 751(c)(5)(C)(ii) of the Act.

Dated: October 15, 2004.

Jeffrey A. May,

Acting Assistant Secretary for Import Administration.

[FR Doc. E4–2898 Filed 10–27–04; 8:45 am]

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