

parties, within the deadline specified in section 351.218(d)(1)(i) of the Department's regulations. The domestic interested parties claimed interested parties status under section 771(9)(C) of the Act, as manufacturers, producers, or wholesalers in the United States of a domestic like product. On July 29, 2005, and August 1, 2005, the Department received complete substantive responses from the domestic interested parties within the deadline specified in section 351.218(d)(3)(i) of the Department's regulations. The Department did not receive a response from any respondent interested parties to this proceeding. As a result, pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C)(2) of the Department's regulations, the Department conducted an expedited review of this order.

### Scope of the Order

The products covered by this order are certain paper clips, wholly of wire of base metal, whether or not galvanized, whether or not plated with nickel or other base metal (e.g., copper), with a wire diameter between 0.025 inches and 0.075 inches (0.64 to 1.91 millimeters), regardless of physical configuration, except as specifically excluded. The products subject to this order may have a rectangular or ring-like shape and include, but are not limited to, clips commercially referred to as No. 1 clips, No. 3 clips, Jumbo or Giant clips, Gem clips, Frictioned clips, Perfect Gems, Marcel Gems, Universal clips, Nifty clips, Peerless clips, Ring clips, and Glide-On clips. The products subject to this order are currently classifiable under subheading 8305.90.3010 of the Harmonized Tariff Schedule of the United States ("HTSUS").

Specifically excluded from the scope of this order are plastic and vinyl covered paper clips, butterfly clips, binder clips, or other paper fasteners that are not made wholly of wire of base metal and are covered under a separate subheading of the HTSUS.

Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

### Analysis of Comments Received

All issues raised in this review are addressed in the "Issues and Decision Memorandum" ("Decision Memo") from Stephen J. Claeys, Deputy Assistant Secretary for AD/CVD Operations, to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration, dated October 31, 2005, which is hereby adopted by this notice.

The issues discussed in the Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the order were revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in room B-099 of the main Commerce building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at <http://ia.ita.doc.gov/frn/>. The paper copy and electronic version of the Decision Memo are identical in content.

### Final Results of Review

We determine that revocation of the antidumping duty order on paper clips from China would be likely to lead to continuation or recurrence of dumping at the following weighted-average percentage margins:

Manufacturers/Exporters/Producers	Weighted Average Margin (percent)
Shanghai Lansheng Corporation .....	57.64
Zhejiang Light Industrial Products Import & Export Corporation .....	46.01
Zhejiang Machinery and Equipment Import & Export Corporation ....	60.70
China-wide Rate .....	126.94

This notice also serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with section 351.305 of the Department's regulations. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 31, 2005.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**A-570-879**

### Polyvinyl Alcohol from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review

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

**SUMMARY:** The Department of Commerce ("the Department") is conducting the first administrative review of the antidumping duty order on polyvinyl alcohol ("PVA") from the People's Republic of China ("PRC") covering the period August 11, 2003, through September 30, 2004. We have preliminarily determined that sales have been made below normal value. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on entries of subject merchandise during the period of review ("POR") for which the importer-specific assessment rates are above *de minimis*.

Interested parties are invited to comment on these preliminary results. We will issue the final results no later than 120 days from the date of publication of this notice.

**EFFECTIVE DATE:** November 7, 2005.

**FOR FURTHER INFORMATION CONTACT:** Lilit Astvatsatryan, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6412.

### SUPPLEMENTARY INFORMATION:

#### Background

On October 1, 2003, the Department published in the **Federal Register** the antidumping duty order on PVA from the PRC. See *Antidumping Duty Order: Polyvinyl Alcohol from the People's Republic of China*, 68 FR 56620 (October 1, 2003). On October 1, 2004, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on PVA from the PRC for the period March 20, 2003, through September 30, 2004. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request Administrative Review*, 69 FR 58889 (October 1, 2004). On October

29, 2004, Petitioners<sup>1</sup> requested an administrative review of Sinopec Sichuan Vinylon Works ("SVW"), a producer and exporter of the subject merchandise. SVW did not separately request an administrative review. On November 19, 2004, the Department published in the **Federal Register** a notice of the initiation of the antidumping duty administrative review of PVA from the PRC for the period March 20, 2003, through September 30, 2004. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 69 FR 67701 (November 19, 2004).<sup>2</sup> On May 9, 2005, the Department corrected the beginning of the POR date to August 11, 2003. *See Memorandum to the File from Lilit Astvatsatrian, Case Analyst, through Robert Bolling, Program Manager*, dated May 9, 2005.

On June 23, 2005, the Department published a notice in the **Federal Register** extending the time limit for the preliminary results of review until August 2, 2005. *See Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review: Polyvinyl Alcohol from the People's Republic of China*, 70 FR 36375 (June 23, 2005). Additionally, on July 22, 2005, the Department published a notice in the **Federal Register** further extending the time limit for the preliminary results of review until September 16, 2005. *See Extension of Time Limit for Preliminary Results of the Antidumping Duty Administrative Review: Polyvinyl Alcohol from the People's Republic of China*, 70 FR 42309 (July 22, 2005). Finally, on September 6, 2005, the Department published a notice in the **Federal Register** further extending the time limit for the preliminary results of review until October 31, 2005. *See Extension of Time Limit for Preliminary Results of the Antidumping Duty Administrative Review: Polyvinyl Alcohol from the People's Republic of China*, 70 FR 52984 (September 6, 2005).

On December 9, 2004, the Department issued its standard antidumping

questionnaire<sup>3</sup> to SVW. SVW submitted its Section A questionnaire response on December 29, 2004, and its Sections C and D responses on January 18, 2005. The Department issued a Section A supplemental questionnaire to SVW on March 16, 2005, to which SVW responded on April 4, 2005. The Department issued a Sections C and D supplemental questionnaire to SVW on May 3, 2005, to which SVW responded on May 17, 2005. On June 15, 2005, the Department issued a second Sections A–D supplemental questionnaire to SVW, to which SVW responded on July 15, 2005. On September 13, 2005, the Department issued a third Sections A–D supplemental questionnaire to SVW, to which SVW responded on September 20, 2005. Finally, on October 6, 2005, the Department issued a fourth Section D supplemental questionnaire to SVW, to which SVW responded on October 17, 2005.

#### Period of Review

The POR is August 11, 2003, through September 30, 2004.

#### Scope of Order

The merchandise covered by this order is PVA. This product consists of all PVA hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid, except as noted below.

The following products are specifically excluded from the scope of this investigation:

- A. PVA in fiber form.
- 2) PVA with hydrolysis less than 83 mole percent and certified not for use in the production of textiles.
- 3) PVA with hydrolysis greater than 85 percent and viscosity greater than or equal to 90 cps.
- 4) PVA with a hydrolysis greater than 85 percent, viscosity greater than or equal to 80 cps but less than 90 cps, certified for use in an ink jet application.
- 5) PVA for use in the manufacture of an excipient or as an excipient in the manufacture of film coating systems which are components of a drug or dietary supplement, and accompanied by an end–use certification.
- 6) PVA covalently bonded with cationic monomer uniformly present on all polymer chains in a

concentration equal to or greater than one mole percent.

- 7) PVA covalently bonded with carboxylic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent, certified for use in a paper application.
- 8) PVA covalently bonded with thiol uniformly present on all polymer chains, certified for use in emulsion polymerization of non–vinyl acetic material.
- 9) PVA covalently bonded with paraffin uniformly present on all polymer chains in a concentration equal to or greater than one mole percent.
- 10) PVA covalently bonded with silan uniformly present on all polymer chains certified for use in paper coating applications.
- 11) PVA covalently bonded with sulfonic acid uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.
- 12) PVA covalently bonded with acetoacetylate uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.
- 13) PVA covalently bonded with polyethylene oxide uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.
- 14) PVA covalently bonded with quaternary amine uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.
- 15) PVA covalently bonded with diacetoneacrylamide uniformly present on all polymer chains in a concentration level greater than three mole percent, certified for use in a paper application.

The merchandise subject to this order is currently classifiable under subheading 3905.30.00 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheading is provided for convenience and Customs purposes, the written description of the scope of this order is dispositive.

#### Nonmarket Economy Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as a non–market economy ("NME") country. In accordance with section 771(18)(C)(i) of the Tariff Act of 1930, as amended ("the Act"), any determination that a foreign country is an NME country shall remain in effect until revoked by the

<sup>1</sup> Celanese Chemicals, Ltd. and E.I. DuPont de Nemours and Co. (collectively "Petitioners").

<sup>2</sup> We note that the beginning date (*i.e.*, March 20, 2003) of the announced POR was not correct. The Department inadvertently published an incorrect beginning date using the date of the preliminary determination of sales at less than fair value ("LTFV") investigation. Because the only respondent in this proceeding had a *de minimis* rate in the preliminary determination, the correct beginning date for the POR should have been the date of the final determination in the investigation. Thus, the Department corrected the beginning date of the POR to reflect the correct POR which is August 11, 2003, through September 30, 2004. *See Memorandum to the File from Lilit Astvatsatrian, Case Analyst, through Robert Bolling, Program Manager*, dated May 9, 2005.

<sup>3</sup> Section A: Organization, Accounting Practices, Markets and Merchandise.

Section C: Sales to the United States.

Section D: Factors of Production.

administering authority. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Preliminary Results 2001–2002 Administrative Review and Partial Rescission of Review*, 68 FR 7500 (February 14, 2003). None of the parties to this proceeding has contested such treatment. Accordingly, we calculated normal value (“NV”) in accordance with section 773(c) of the Act, which applies to NME countries.

### Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base normal value on the NME producer's factors of production, valued in a surrogate market–economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the factors of production, the Department shall utilize, to the extent possible, the prices or costs of factors of production in one or more market–economy countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.

The Department has determined that India, Indonesia, Sri Lanka, the Philippines, and Egypt are countries comparable to the PRC in terms of economic development. *See Memorandum from Ron Lorentzen to Wendy Frankel: Antidumping Administrative Review of Polyvinyl Alcohol from the People's Republic of China (PRC): Request for a List of Surrogate Countries*, dated March 7, 2005. Customarily, we select an appropriate surrogate country based on the availability and reliability of data from the countries that are significant producers of comparable merchandise. For PRC cases, the primary surrogate country has often been India if it is a significant producer of comparable merchandise. In this case, we have found that India is a significant producer of comparable merchandise. *See Memo to Wendy Frankel and Robert Bolling from Lilit Astvatsatrian: Polyvinyl Alcohol from the People's Republic of China: Selection of a Surrogate Country*, June 13, 2005.

The Department used India as the primary surrogate country and, accordingly, has calculated normal value using Indian prices to value the PRC producers' factors of production, when available and appropriate. The sources of the surrogate factor values are discussed under the “Normal Value” section below and in the *Preliminary*

*Results of Review of the Order on Polyvinyl Alcohol from the People's Republic of China: Factor Valuation Memorandum from Lilit Astvatsatrian, Case Analyst, through Robert Bolling, Program Manager, Office VIII to the File*, dated October 31, 2005 (“*Factor Valuation Memorandum*”). We have obtained and relied upon publicly available information wherever possible.

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results in an administrative review, interested parties may submit publicly available information to value factors of production within 20 days after the date of publication of these preliminary results.

### Separate Rates

In an NME proceeding, the Department presumes that all companies within the country are subject to government control and should be assigned a single antidumping duty rate unless the respondent demonstrates the absence of both *de jure* and *de facto* government control over its export activities. *See Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 19026 (April 30, 1996). SVW provided company–specific separate rates information and stated that it met the standards for the assignment of a separate rate. In determining whether companies should receive separate rates, the Department focuses its attention on the exporter, in this case SVW, rather than the manufacturer, as our concern is the manipulation of dumping margins. *See Notice of Final Determination of Sales at Less Than Fair Value: Manganese Metal from the People's Republic of China*, 60 FR 56045 (November 6, 1995). Consequently, the Department analyzed whether the exporter of the subject merchandise, SVW, should receive a separate rate.

The Department's separate rate test is not concerned, in general, with macroeconomic, border–type controls (e.g., export licenses, quotas, and minimum export prices), particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision–making process at the individual firm level. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From Ukraine*, 62 FR 61754 (November 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty*

*Administrative Review*, 62 FR 61276 (November 17, 1997); and *Notice of Preliminary Determination of Sales at Less Than Fair Value: Honey from the People's Republic of China*, 60 FR 14725 (March 20, 1995).

To establish whether a firm is sufficiently independent from government–control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), as modified by, *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (“*Silicon Carbide*”). Under the separate rates test, the Department assigns separate rates in NME cases only if the respondent can demonstrate the absence of both *de jure* and *de facto* government control over export activities. *See Silicon Carbide and Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544 (May 8, 1995) (“*Furfuryl Alcohol*”).

A. Absence of *De Jure* Control  
The Department considers the following *de jure* criteria in determining whether an individual exporter may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; and (2) any legislative enactments decentralizing control of companies.

SVW has placed on the record statements and documents to demonstrate absence of *de jure* control. In its questionnaire responses, SVW reported that, other than paying taxes, it has no relationship with any level of the PRC government. *See* page A–2 of SVW's December 29, 2004, Section A questionnaire response (“AQR”). SVW stated that it legally became an independent entity responsible for its own profits and losses. *See* page A–6 of the AQR. SVW submitted a copy of the Foreign Trade Law of the PRC to demonstrate that there is no centralized control over its export activities. *See* Attachment A–1 of the AQR. SVW also confirmed that the subject merchandise is not subject to export quotas or export control licenses. *See* page A–4 of the AQR. Furthermore, SVW stated that the Chongqing City Economic and Trade Commission has no involvement in SVW's daily activities and price negotiations with its customers. *See* page SA–5 of SVW's April 4, 2005, supplemental Section A response (“SAQR”). SVW reported that it is required to obtain a business license,

which is issued by the Chongqing Municipal Industry and Commerce Administration. See page A-3 of the AQR. We examined the laws and SVW's business license which it provided in its questionnaire responses, and determined that these documents demonstrate an authority for establishing the absence of *de jure* control over the export activities and provide evidence demonstrating the absence of government control associated with SVW's business license.

#### B. Absence of *De Facto* Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. See *Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255 (December 31, 1998). Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates. The Department typically considers four factors in evaluating whether a particular exporter is subject to *de facto* government control of its export functions: (1) whether the exporter sets its own export prices independent of the government and without the approval of a government authority; (2) whether the exporter has authority to negotiate and sign contracts, and other agreements; (3) whether the exporter has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the exporter retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.

SVW states it is owned by "all the people" and has provided separate rates information in its AQR, SAQR, and in its July 25, 2005, supplemental response. SVW has stated that there is no element of government control and has requested a separate, company-specific rate.

As stated in *Furfuryl Alcohol*, ownership of the company by "all the people" does not require the application of a single rate. Accordingly, SVW is eligible for consideration of a separate rate.

In support of demonstrating an absence of *de facto* control, SVW has asserted the following: (1) SVW established its own export prices; (2) SVW negotiated contracts without guidance from any government entities

or organizations; (3) SVW made its own personnel decisions; and (4) SVW retained the proceeds of its export sales and independently used profits according to its business needs. See pages A-4 through A-7 of the AQR. Additionally, SVW's questionnaire responses indicate that it does not coordinate with other exporters in setting prices. See page A-5 of the AQR. This information supports a preliminary finding that there is an absence of *de facto* government control of the export functions of SVW. Consequently, we preliminarily determine that SVW has met the criteria for the application of a separate rate.

The evidence placed on the record of this administrative review by SVW demonstrates an absence of government control, both in law and in fact, with respect to its exports of the merchandise under review. As a result, for the purposes of these preliminary results, the Department is granting a separate, company-specific rate to SVW, the exporter which shipped the subject merchandise to the United States during the POR.

#### Partial Facts Available

Section 776(a)(2) of the Act provides that if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form requested, significantly impedes a proceeding under the antidumping statute, or provides information that cannot be verified, the Department shall use facts available in reaching the applicable determination. As discussed in detail below, we have preliminarily determined that the use of partial facts available is warranted for production labor hours not reported by SVW.

SVW failed to provide information regarding its classification of selling, general, and administrative labor ("SG&A"). In its October 6, 2005, fourth supplemental questionnaire, the Department requested that SVW describe the types of labor included in its general and administrative labor hours and discuss the rationale behind this classification. In response, SVW explained that the workers in this category do not directly participate in the production process and therefore, are considered to be general and administrative labor. See page 5 of SVW October 17, 2005, fourth supplemental Section D response ("FSDQR"). Further, SVW provided a worksheet indicating the number of workers and hours under different SG&A categories. See Attachment S4-7 of *id.* However, SVW did not explain why some of the categories are considered SG&A when

they appear to be oriented toward production labor, in particular "Production management" and "Engineering management." Since SVW withheld the descriptions that the Department requested, the Department determines that the workers and labor hours under the headings of "Production management" and "Engineering management" represent production workers and labor hours. Therefore, after determining the percentage of subject merchandise, we have allocated the same portion of "Production management" and "Engineering management" to direct labor of PVA production. See Exhibit 5 of *Sinopec Sichuan Vinylon Works Program Analysis for the Preliminary Results of Review*, October 31, 2005 ("SVW Analysis Memorandum").

#### Normal Value Comparisons

To determine whether sales of PVA to the United States by SVW were made at less than normal value ("NV"), we compared export price ("EP") to NV, as described in the "Export Price" and "Normal Value" sections of this notice.

#### Export Price

In accordance with section 772(a) of the Act, EP is the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise 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 section 772(c) of the Act. In accordance with section 772(a) of the Act, we used EP for all of SVW's U.S. sales because the subject merchandise was sold directly to the unaffiliated customers in the United States prior to importation and because constructed export price was not otherwise indicated for those transactions.

We calculated EP for SVW based on delivered prices to unaffiliated purchaser(s) in the United States. We made deductions from the U.S. sale price for movement expenses in accordance with section 772(c)(2)(A) of the Act. These included foreign inland freight from the plant to the port of exportation and domestic brokerage and handling charges. See *SVW Analysis Memorandum*.

#### Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using a factors-of-production methodology if: (1) the merchandise is exported from an NME country; and (2) the information does not permit the

calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department will base NV on factors of production because the presence of government controls on various aspects of these economies renders price comparisons and the calculation of production costs invalid under our normal methodologies.

Factors of production include: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. We used factors of production reported by respondents for materials, energy, labor, by-products, and packing.

Our general policy, consistent with section 773(c)(1)(B) of the Act, is to value the factors of production that a respondent uses to produce the subject merchandise, based on the best available information regarding the values of such factors in a market economy country. See *Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 4986 (January 31, 2003). In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by SVW for the POR. As the basis for NV, SVW reported factors of production information for each separate stage of production, including the factors used in the production of all self-produced material and energy inputs, and by-products. We have valued the factors reported for each self-produced input for purposes of the preliminary results.

If the NME respondent is an integrated producer, we take into account the factors utilized in each stage of the production process. For example, in the case of preserved canned mushrooms produced by a fully integrated firm, the Department valued the factors used to grow the mushrooms, the factors used to further process and preserve the mushrooms, and any additional factors used to can and package the mushrooms, including any used to manufacture the cans (if produced in-house). If, on the other hand, the firm was not integrated, but simply a processor that bought fresh mushrooms to preserve and can, the Department valued the purchased mushrooms and not the factors used to grow them. See the final results valuation memorandum for *Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms*

*From the People's Republic of China*, 66 FR 31204 (June 11, 2001). This policy has been applied to both agricultural and industrial products. See, e.g., *Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 68 FR 6712 (February 10, 2003) and *Notice of Final Determinations of Sales at Less Than Fair Value: Brake Drums and Brake Rotors From the People's Republic of China* 62 FR 9160 (February 28, 1997). Accordingly, our standard NME questionnaire asks respondents to report the factors used in the various stages of production.

There are, however, two limited exceptions to this general rule. First, in some cases a respondent may report factors used to produce an intermediate input that accounts for a small or insignificant share of total output. The Department recognizes that, in those cases, the increased accuracy in our overall calculations that would result from valuing (separately) each of those factors may be so small so as to not justify the burden of doing so. Therefore, in those situations, the Department would value the intermediate input directly. See *Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from the People's Republic of China*, 68 FR 47538 (August 11, 2003) ("*Polyvinyl Alcohol*").

Second, in certain circumstances, it is clear that attempting to value the factors used in a production process yielding an intermediate product would lead to an inaccurate result because a significant element of cost would not be adequately accounted for in the overall factors buildup. For example, in a recent case, we addressed whether we should value the respondent's factors used in extracting iron ore an input to its wire rod factory. The Department determined that, if it were to use those factors, it would not sufficiently account for the capital costs associated with the iron ore mining operation given that the surrogate used for valuing production overhead did not have mining operations. Therefore, because ignoring this important cost element would distort the calculation, the Department declined to value the inputs used in mining iron ore and valued the iron ore instead. See *Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod From Ukraine*, 67 FR 55785 (August 30, 2002); *Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From the People's Republic of China*, 66 FR 49632 (September 28, 2001); *Final*

*Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China*, 62 FR 61964 (November 20, 1997); and *Furfuryl Alcohol*, 60 FR 22544.

We have examined the information on the record of this review related to the purity level of PVA and issued several supplemental questionnaires to SVW on this issue. We find that despite its responses to these supplemental questionnaires, SVW has not demonstrated clearly that it accounted for the actual purity level of PVA in its calculation of the vinyl acetate monomer ("VAM") usage factors. See page 4 of SVW's September 20, 2005 third supplemental questionnaire response; and pages 2–3 and Attachments 3 and 4 of FSDQR. The burden is on the respondent in an antidumping proceeding to create a complete and accurate record upon which the Department can make its determination. Therefore, consistent with our determination in the investigation, we have preliminarily determined to adjust the reported VAM factor for each type of PVA to reflect the actual PVA purity level. Accordingly, we have adjusted the reported VAM utilization factor for each type of PVA by the ratio of the actual purity level for each type of PVA to the standard purity level reported by SVW. See SVW *Analysis Memorandum, and Polyvinyl Alcohol*, 68 FR 47538 and its accompanying *Issues and Decision Memorandum*, at Comment 4.

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to value factors of production, but when a producer sources an input from a market economy and pays for it in market-economy currency, the Department will normally value the factor using the actual price paid for the input. See 19 CFR 351.408(c)(1); see also *Lasko Metal Products v. United States*, 43 F. 3d 1442, 1445–1446 (Fed. Cir. 1994). However, when the Department has reason to believe or suspect that such prices may be distorted by subsidies, the Department will disregard the market-economy purchase prices and use surrogate values to determine the NV. See *Notice of Amended Final Determination of Sales at Less than Fair Value: Automotive Replacement Glass Windshields from the People's Republic of China*, 67 FR 11670 (March 15, 2002).

SVW reported that all of its inputs were sourced from non-market economies and paid for in a non-market-economy currency. See *Factor Valuation Memorandum* for a listing of

these inputs. Therefore, we did not use respondents' actual prices for any NME purchases, and also did not use import statistics from Indonesia, Thailand or Korea in valuing any factors of production, *i.e.*, for material inputs, packing materials, and by-product credits. It is the Department's consistent practice that, where the facts developed in U.S. or third-country countervailing duty findings include the existence of subsidies that appear to be used generally (in particular, broadly available, non-industry specific export subsidies), it is reasonable for the Department to consider that it has particular and objective evidence to support a reason to believe or suspect that prices of the inputs from the country granting the subsidies may be subsidized. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China; Final Results of the 1998-1999 Administrative Review, Partial Rescission of Review, and Determination Not to Revoke Order in Part*, 66 FR 1953 (January 10, 2001) and accompanying *Issues and Decision Memorandum* at Comment 1; *see also Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China; Final Results of 1999-2000 Administrative Review, Partial Rescission of Review, and Determination Not To Revoke Order in Part*, 66 FR 57420 (November 15, 2001) and accompanying *Issues and Decision Memorandum* at Comment 1; *China National Machinery Imp & Exp. Corp. V. United States*, 293 F. Supp. 2d 1334, 1339 (CIT 2003).

#### Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by the respondent for the POR. To calculate NV, we multiplied the reported per-unit factor quantities by publicly available Indian surrogate values (except as noted below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where appropriate (*i.e.*, where the sales terms for the market-economy inputs were not delivered to the factory). This adjustment is in accordance with the decision of the Court of Appeals for the Federal Circuit in *Sigma Corp. v. United States*, 117 F.

3d 1401 (Fed. Cir. 1997). For a detailed description of all surrogate values used for respondents, see *Factor Valuation Memorandum*.

We valued D-tartaric acid, sodium hexametaphosphate, sodium nitrite, sulfuric acid, sodium carbonate, caustic soda, liquid caustic soda, hydroquinone, N-butyl acetate, hydrochloric acid, zinc sulfate, acrylic acid-acrylic ester, methyl acetate, and zinc oxide using Indian domestic market prices reported in *Chemical Weekly*, contemporaneous with the POR. We valued azodisobutyronitrile, bacteria killer, de-sulfur agent, solid activated carbon, quinone, liquid chlorine, steam coal, solid sodium hydroxide, poly ferro-sulfate, and acetic acid using India import statistics as published by the *World Trade Atlas*, contemporaneous with the POR.

We valued natural gas using a price obtained from the website of the Gas Authority of India Ltd., a supplier of natural gas in India, contemporaneous with the POR. For further discussion, see *Factor Valuation Memorandum*.

To value paper bags and polyethylene plastic bags (*i.e.*, the packing materials reported by the respondent), we used import values from the *World Trade Atlas*, contemporaneous with the POR.

Regarding N-methyl-2pyrrolidone, alkynes gas, and anti-erosion agent, reported by SVW, we did not value these factors because: 1) surrogate value information was not available; and 2) the materials were reported as being used in minimal amounts. In previous cases, where certain materials were reportedly consumed in very small amounts and the surrogate values for these materials were not available, the Department did not include surrogate values for these materials in its calculation of normal value. *See Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Polyvinyl Alcohol from the People's Republic of China*, 68 FR 13680 (March 20, 2003); *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 its accompanying *Issues and Decision Memorandum* at Comment 8; *Ferrovanadium and Nitrided Vanadium from the Russian Federation: Notice of Final Results of Antidumping Duty Administrative Review*, 62 FE 65656 (December 15, 1997), and its accompanying *Issues and Decision Memorandum* at Comment 11; and *Final Determination of Sales at Less Than Fair Value: Oscillating Fans and Ceiling Fans from the People's Republic of China*, 56 FR 55273 (October 25,

1991). For the same reasons we did not value industrial grade salt, and chlorine dioxide used in treated water in our calculation of NV. In addition, for the same reasons we did not value freon. Although Petitioners provided a surrogate value for freon, the value provided reflected a price between affiliated parties. *See Attachment D of Petitioners' April 21, 2005, submission of surrogate values*. In selecting surrogate values, the Department prefers, among other things, publicly available prices that are representative of a range of prices, and the proposed surrogate value does not meet this criteria.

For direct labor, indirect labor, and packing labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression-based wage rate as reported on Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in November 2004, <http://ia.ita.doc.gov/wages/corrected02wages-02wages-corrected.html>. The source of these wage rate data on the Import Administration's web site is the Yearbook of Labour Statistics 2002, ILO, (Geneva: 2002), Chapter 5B: Wages in Manufacturing. Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by the respondent.

To determine factory overhead, depreciation, SG&A expenses, interest expenses, and profit for the finished product, we relied on rates derived from the financial statements of Jubilant Organosys Ltd., an Indian producer of comparable merchandise. We applied these ratios to SVW's costs (determined as noted above) for materials, labor, and energy. For further discussion, see the *Factor Valuation Memorandum*.

Finally, SVW reported that it generated certain by-products as a result of the production of PVA or the inputs used to produce PVA.<sup>4</sup> Because SVW did not provide sufficient information to permit the accurate valuation of these by-products and we were unable to obtain appropriate surrogate value data for them, we did not value these by-products for these preliminary results.

#### Weighted-Average Dumping Margin

The weighted-average dumping margin is as follows:

<sup>4</sup> These by-products included alkynes gas and recovered low pressure nitrogen.



## POLYVINYL ALCOHOL FROM THE PRC

Producer/Manufacturer/ Exporter	Weighted-Average Margin (Percent)
SVW .....	8.04 %

**Disclosure**

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication of these preliminary results. See 19 CFR 351.310(c). Any hearing, if requested, will generally be held two days after the scheduled date for submission of rebuttal briefs. See 19 CFR 351.310(d). Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. See 19 CFR 351.309(c)(ii). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication. See 19 CFR 351.309(d). Further, parties submitting written comments should provide the Department with an additional copy of those comments on diskette. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any comments, and at a hearing, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

**Assessment Rates**

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. Within 15 days of the completion of this review, the Department will instruct CBP to assess antidumping duties on all appropriate entries of subject merchandise. The Department will issue appropriate assessment instructions directly to CBP upon completion of this review. If these preliminary results are adopted in our final results of review, we will direct CBP to assess the resulting rate against the entered customs value for the subject merchandise on each importer's/customer's entries during the POR.

**Cash-Deposit Requirements**

The following cash-deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for

consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) the cash deposit rate for the reviewed company will be the rate listed in the final results of review (except where the rate for a particular company is *de minimis*, i.e., less than 0.5 percent, no cash deposit will be required for that company); (2) for previously investigated companies not listed above that have separate rate, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) the cash deposit rate for all other PRC exporters will be 97.86 percent, the current PRC-wide rate; and (4) the cash deposit rate for all non-PRC exporters will be the rate applicable to the PRC exporter that supplied that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

**Notification to Importers**

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these preliminary results of review in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b).

Dated: October 31, 2005.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

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**BILLING CODE 3510-DS-S**

**DEPARTMENT OF COMMERCE****International Trade Administration**

**A-533-813**

**Certain Preserved Mushrooms from India: Preliminary Results of Antidumping Duty Administrative Review**

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

**SUMMARY:** In response to timely requests by Agro Dutch Industries, Ltd. (Agro

Dutch) and the petitioner,<sup>1</sup> the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain preserved mushrooms from India with respect to Agro Dutch. The period of review (POR) is February 1, 2004, through January 31, 2005.

We preliminarily determine that sales have been made below normal value (NV). Interested parties are invited to comment on these preliminary results. If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries.

**EFFECTIVE DATE:** November 7, 2005.

**FOR FURTHER INFORMATION CONTACT:**

David J. Goldberger or Gemal Brangman, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4136 or (202) 482-3773, respectively.

**SUPPLEMENTARY INFORMATION:****Background**

On February 19, 1999, the Department published in the **Federal Register** an amended final determination and antidumping duty order on certain preserved mushrooms from India (64 FR 8311).

In response to timely requests by a manufacturer/exporter, Agro Dutch, and the petitioner, the Department published a notice of initiation of an administrative review with respect to the following companies: Agro Dutch, Alpine Biotech Ltd. (Alpine Biotech), Dinesh Agro Products, Ltd. (Dinesh Agro), Flex Foods, Ltd. (Flex Foods), Himalya International, Ltd. (Himalya), KICM (Madras) Ltd. (KICM), Mandeep Mushrooms Ltd. (Mandeep), Premier Mushroom Farms (Premier), Saptarishi Agro Industries Ltd. (Saptarishi Agro), Transchem Ltd. (Transchem), Techtran Agro Industries Limited (Techtran) and Weikfield Agro Products Ltd. (Weikfield) (70 FR 14643, March 23, 2005). The POR is February 1, 2004, through January 31, 2005.

On March 29, 2005, the Department issued antidumping duty questionnaires to the above-mentioned companies. We received responses to these questionnaires during the period May

<sup>1</sup> The petitioner is the Coalition for Fair Preserved Mushroom Trade which includes the following domestic companies: L.K. Bowman, Inc., Monterey Mushrooms, Inc., Mushroom Canning Company, and Sunny Dell Foods, Inc.