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BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-924]

Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value

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

EFFECTIVE DATE: September 24, 2008.

SUMMARY: On May 5, 2008, the Department of Commerce ("Department") published its preliminary determination of sales at less than fair value ("LTFV") in the antidumping investigation of polyethylene terephthalate film, sheet, and strip ("PET Film") from the People's Republic of China ("PRC"). The period of investigation ("POI") is January 1, 2007, through June 30, 2007. We invited interested parties to comment on our preliminary determination of sales at LTFV. Based on our analysis of the comments we received, we have made changes to our calculation for the mandatory respondent. The final dumping margins for this investigation are listed in the "Final Determination Margins" section below.

FOR FURTHER INFORMATION CONTACT: Erin Begnal or Toni Dach, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1442 or (202) 482-1655, respectively.

FINAL DETERMINATION

We determine that PET Film from the PRC is being, or is likely to be, sold in the United States at LTFV as provided

in section 735 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Final Determination Margins" section of this notice.

SUPPLEMENTARY INFORMATION:

Case History

The Department published its preliminary determination of sales at LTFV on

May 5, 2008. See *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 73 FR 24552 (May 5, 2008) ("*Preliminary Determination*").

On May 2, 2008, DuPont Teijin Films China Limited ("DTFC"), the sole active mandatory respondent, along with its affiliates DuPont Teijin Hongji Films Ningbo Co., Ltd. ("DTHFN") and DuPont-Hongji Films Foshan Co., Ltd. ("DPHJ"), (collectively the DuPont Group), requested a 60-day extension of the final determination. On June 2, 2008, the Department published the postponement of the final determination. See *Postponement of Final Determinations of Antidumping Duty Investigations: Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China, Brazil, and Thailand*, 73 FR 31964 (June 5, 2008).

Between June 5, 2008, and June 20, 2008, the Department conducted verifications of DTFC and DPHJ, and their U.S. affiliate, DuPont Teijin Films U.S. Limited Partnership ("DTFUS"). See the "Verification" section below for additional information. Upon the July 28, 2008, release of the verification reports for DPHJ, DTFUS, and DTFC, parties were allotted seven days to comment on the *Preliminary Determination*. On August 5, 2008, the DuPont Group filed a case brief. No other interested parties submitted case briefs or rebuttal briefs.

Analysis of Comments Received

All issues raised in the DuPont Group's case brief are addressed in the "Issues and Decision Memorandum for the Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China," dated September 17, 2008 ("*I&D Memo*"), which is hereby adopted by this notice. A list of the issues which the DuPont Group raised and to which we respond in the I&D Memo is attached to this notice as an appendix. The I&D Memo is a public document and is on file in the Central Records Unit ("CRU"), Main Commerce Building, Room 1117, and is accessible on the

world wide web at <http://www.trade.gov/ia>. The paper copy and electronic version of the memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of information on the record of this investigation, and comments received from the interested parties, we have made changes to the margin calculations for the DuPont Group. We have revalued some of the surrogate values used in the *Preliminary Determination*. The values that were modified for this final determination are those for surrogate financial ratios and PET chips. For further details see I&D Memo at Comments 1 and 3, and Memorandum to the File from Erin Begnal, through Scot T. Fullerton, Program Manager, AD/CVD Operations, Office 9, and James C. Doyle, Director, AD/CVD Operations, Office 9; Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Surrogate Values for the Final Determination, dated September 17, 2008 ("*Final Surrogate Value Memo*").

In addition, we have made some company-specific changes since the *Preliminary Determination*. Specifically, we have incorporated, where applicable, post-preliminary clarifications based on verification for DTFC. For further details on these company-specific changes, see Memorandum to the File, through Scot T. Fullerton, Program Manager, AD/CVD Operations, Office 9, from Erin Begnal, Senior International Trade Analyst, AD/CVD Operations, Office 9, regarding "Program Analysis for the Final Determination of Antidumping Duty Investigation of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China," dated September 17, 2008 ("*DTFC Analysis Memorandum*").

Scope of Investigation

The products covered by this investigation are all gauges of raw, pre-treated, or primed PET Film, whether extruded or co-extruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer more than 0.00001 inches thick. Also excluded is Roller transport cleaning film which has at least one of its surfaces modified by application of 0.5 micrometers of SBR latex. Tracing and drafting film is also excluded. PET Film is classifiable under subheading 3920.62.00.90 of the Harmonized Tariff Schedule of the United States ("HTSUS"). While HTSUS subheadings are provided for

convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

Affiliations

In the *Preliminary Determination*, the Department preliminarily found, based on the evidence on the record in this investigation and based on the evidence presented in the questionnaire responses, that DTFC, DPHJ, and DTHFN, are affiliated parties within the meaning of section 771(33)(E) of the Act, due to common ownership. See *Preliminary Determination*, 73 FR at 24555. No other information has been placed on the record since the *Preliminary Determination* to contradict the information upon which we based our finding that these companies are affiliated. Therefore, for the final determination, we continue to find that DTFC, DPHJ, and DTHFN are affiliated parties pursuant to section 771(33)(E) of the Act, based on common ownership.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the DuPont Group for use in our final determination. See Memorandum to the File, through Scot T. Fullerton, Program Manager, AD/CVD Operations, Office 9, from Erin Begnal, Senior International Trade Compliance Analyst, AD/CVD Operations, Office 9, and Toni Dach, International Trade Compliance Analyst, AD/CVD Operations, Office 9, regarding, "Verification of the Sales Response of DuPont-Hongji Films Foshan Co., Ltd. in the Antidumping Duty Investigation of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China," dated July 28, 2008; Memorandum to the File, through Scot T. Fullerton, Program Manager, AD/CVD Operations, Office 9, from Erin Begnal, Senior International Trade Compliance Analyst, AD/CVD Operations, Office 9, and Toni Dach, International Trade Compliance Analyst, AD/CVD Operations, Office 9, regarding, "Verification of the Sales Response of DuPont Teijin Films China Ltd. in the Antidumping Duty Investigation of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China," dated July 28, 2008; and Memorandum to the File, through Scot T. Fullerton, Program Manager, AD/CVD Operations, Office 9, from Erin Begnal, Senior International Trade Compliance Analyst, AD/CVD Operations, Office 9, and Toni Dach, International Trade Compliance Analyst, AD/CVD Operations, Office 9, regarding, "Verification of the Sales Response of DuPont Teijin Films U.S. Limited

Partnership in the Antidumping Duty Investigation of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China," dated July 28, 2008. For all verified companies, we used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by respondents.

Surrogate Country

In the *Preliminary Determination*, we stated that we had selected India as the appropriate surrogate country to use in this investigation for the following reasons: (1) it is at a similar level of economic development pursuant to section 773(c)(4) of the Act (2); it is a significant producer of identical merchandise; (3) and we have reliable data from India that we can use to value the factors of production. See *Preliminary Determination*, 73 FR at 24554–24555. For the final determination, we received no comments and, therefore, made no changes to our findings with respect to the selection of a surrogate country.

Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's practice to assign all exporters of merchandise subject to an investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate ("SR"). See, e.g., *Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("Sparklers"), as amplified 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"), and Section 351.107(d) of the Department's regulations.

In the *Preliminary Determination*, we found that because there is no PRC ownership of DTFC and Fuwei Films (Shandong) Co., Ltd. ("Fuwei Films"), i.e., they are wholly foreign-owned, a separate rates analysis was not necessary to determine whether these companies were independent from government control, and we preliminarily granted them a separate rate. See *Preliminary Determination*, 73 FR at 24556. For Shaoxing Xiangyu Green Packing Co., Ltd., Tianjin

Wanhua Co., Ltd., Sichuan Dongfang Insulating Material Co., Ltd., and Shanghai Uchem Co., Ltd. (collectively, "SR Applicants") we found that each demonstrated their eligibility for separate-rate status. *Id.* For the final determination, we continue to find that the evidence placed on the record of this investigation by the SR Applicants demonstrate both a *de jure* and *de facto* absence of government control, with respect to their respective exports of the merchandise under investigation, and, thus they are eligible for separate rate status. We also continue to find, based on evidence placed on the record by DTFC and Fuwei Films, that DTFC and Fuwei Films are eligible for separate rate status.

For the final determination, we have established a margin for the SR Applicants based on the rate we calculated for the cooperating mandatory respondent, DTFC.¹

The PRC-Wide Rate

In the *Preliminary Determination*, the Department found that Jiangyin Jinzhongda New Material Co., Ltd. ("JJ New Material"), which was selected as a mandatory respondent, did not respond to the Department's questionnaire and informed the Department that it would not participate in the investigation. In the *Preliminary Determination* we treated JJ New Material as part of the PRC-wide entity because it did not demonstrate that it operates free of government control over its export activities. See *Preliminary Determination*, 73 FR at 24557. No additional information has been placed on the record with respect to JJ New Material after the *Preliminary Determination*. The PRC-wide entity, which includes JJ New Material, has not provided the Department with the requested information; therefore, pursuant to section 776(a)(2)(A),(B) and (C) of the Act, the Department continues to find that the use of facts available is appropriate to determine the PRC-wide rate. Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information. See *Notice of Final Determination of Sales*

¹ See, e.g., *Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 71 FR 77373, 77377 (December 26, 2006), unchanged in *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007).

at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation, 65 FR 5510, 5518 (February 4, 2000). See also Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol. 1 (1994) (“SAA”) at 870. We determined that, because the PRC-wide entity did not respond to our requests for information and stated that it would not participate in the investigation, it has failed to cooperate to the best of its ability. Therefore, the Department finds that, in selecting from among the facts otherwise available, an adverse inference is appropriate for the PRC-wide entity.

Because we begin with the presumption that all companies within a NME country are subject to government control and because only the companies listed under the “Final Determination Margins” section below have overcome that presumption, we are applying a single antidumping rate - the PRC-wide rate - to all other exporters of subject merchandise from the PRC. Such companies did not demonstrate entitlement to a separate rate. 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, 25707 (May 3, 2000). The PRC-wide rate applies to all entries of subject merchandise except for entries from the respondents which are listed in the “Final Determination Margins” section below.

Corroboration

In the Preliminary Determination, the Department assigned to the PRC-wide entity a rate of 76.72 percent, the highest calculated rate from the petition. See *Preliminary Determination*, 73 FR at 24557. Section 776(c) of the Act provides that, when the Department relies on secondary information in using the facts otherwise available, it must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. We

have interpreted “corroborate” to mean that we will, to the extent practicable, examine the reliability and relevance of the information submitted. See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Brazil*, 65 FR 5554, 5568 (February 4, 2000). See also *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan: Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

To corroborate the petition margin for use as adverse facts available for the PRC-wide entity, to the extent appropriate information was available, we reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis. See *Initiation Checklist*. We examined evidence supporting the calculation in the petition to determine the probative value of the margin alleged in the petition for use as PRC-wide rate. During our pre-initiation analysis, we examined the key elements of the export-price and normal-value calculations used in the petition to derive the margin. Also, during our pre-initiation analysis, we examined information from various independent sources provided either in the petition or, based on our requests, in supplements to the petition, that corroborates key elements of the export-price and normal-value calculations used in the petition to derive the

estimated margin. See 19 CFR 351.308(d).

We received no comments as to the relevance or probative value of this information. Therefore, the Department finds that the rate derived from the petition for purposes of initiation is reliable for the purpose of being selected as the adverse facts available rates assigned to the PRC-wide entity (including JJ New Material). Similar to our position in *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Light-Walled Rectangular Pipe and Tube From the Republic of Korea*, 73 FR 5794 (January 31, 2008), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Light-Walled Rectangular Pipe and Tube from the Republic of Korea*, 73 FR 35655 (June 24, 2008), 72 FR 1982 (January 17, 2007), because this is the first proceeding involving the PRC-wide entity (including JJ New Material) in this particular case, to which we are applying AFA, there are no probative alternatives.

Further, no information has been presented in the investigation that calls into question the relevance of this information. As such, we determine the highest margin in the petition, which we determined during our pre-initiation analysis was based on adequate and accurate information, and which we have corroborated for purposes of this final determination, is relevant as the adverse facts-available rate for the PRC-wide entity (including JJ New Material). Accordingly, by using information that was corroborated in the pre-initiation stage of this investigation and determined to be relevant to the PRC-wide entity (including JJ New Material) in this investigation, we have corroborated the adverse facts-available rate “to the extent practicable.”

Final Determination Margins

The weighted-average dumping margins are as follows:

PET FILM FROM THE PRC

Exporter	Producer	Weighted-Average Margin
DuPont Teijin Films China Ltd.	DuPont Hongji Films Foshan Co. Ltd.	3.49 %
DuPont Teijin Films China Ltd.	DuPont Teijin Hongji Films Ningbo Co., Ltd.	3.49 %
Fuwei Films (Shandong) Co., Ltd.	Fuwei Films (Shandong) Co., Ltd.	3.49 %
Shaoxing Xiangyu Green Packing Co., Ltd.	Shaoxing Xiangyu Green Packing Co., Ltd.	3.49 %
Sichuan Dongfang Insulating Material Co., Ltd.	Sichuan Dongfang Insulating Material Co., Ltd.	3.49 %
Tianjin Wanhua Co., Ltd.	Tianjin Wanhua Co., Ltd.	3.49 %
Shanghai Uchem Co., Ltd.	Sichuan Dongfang Insulating Material Co., Ltd.	3.49 %
Shanghai Uchem Co., Ltd.	Shanghai Xishu Electric Material Co., Ltd.	3.49 %
PRC-wide (including Jiangyin Jinzhongda New Material Co., Ltd.)	76.72%

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

We will instruct U.S. Customs and Border Protection ("CBP") to continue the suspension of liquidation required by section 735(c)(1)(B) of the Act, of all entries of subject merchandise from DTFC, the SR Applicants, and the PRC-wide entity entered, or withdrawn from warehouse, for consumption on or after May 5, 2008, the date of publication of the *Preliminary Determination*. CBP shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown above. See section 735(c)(1)(B)(ii) of the Act. The suspension of liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission ("ITC") of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, within 45 days the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. See section 735(c)(2) of the Act. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation. See *id.*; section 736 of the Act.

Notification Regarding APO

This notice also serves as a reminder to the parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested.

Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: September 17, 2008.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

Appendix I**DISCUSSION OF THE ISSUES:**

Comment 1: Surrogate Value for PET Chips

Comment 2: Surrogate Value for Paper Cores

Comment 3: Revisions to Financial Ratio Calculations

[FR Doc. E8-22454 Filed 9-23-08; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE**International Trade Administration****Export Trade Certificate of Review**

ACTION: Notice of Application To Amend an Export Trade Certificate of Review Issued to U.S. Shippers Association.

SUMMARY: Export Trading Company Affairs ("ETCA"), International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review ("Certificate"). This notice summarizes the proposed amendment and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Jeffrey Anspacher, Director, Export Trading Company Affairs, International Trade Administration, (202) 482-5131 (this is not a toll-free number) or e-mail at oetca@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.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a non-confidential version of the comments (identified as such) should be included. Any comments not marked as privileged or confidential business information will be deemed to be non-confidential. An original and five (5) copies, plus two (2) copies of the non-confidential version, should be submitted no later than 20 days after the date of this notice to: Export Trading Company Affairs, International Trade Administration, U.S. Department of Commerce, Room 7021-B H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, non-confidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as "Export Trade Certificate of Review, application number 85-15A18."

A summary of the application for an amendment follows.

Summary of the Application

Applicant: U.S. Shippers Association ("USSA"), 3715 East Valley Drive, Missouri City, Texas 77459.

Contact: John S. Chinn, Project Director to USSA, Telephone: (734) 927-4328.

Application No.: 85-15A18.

Date Deemed Submitted: September 17, 2008.

The original USSA Certificate was issued on June 3, 1986 (51 FR 20873, June 9, 1986) and last amended on January 16, 2008 (73 FR 3944, January 23, 2008).

Proposed Amendment: USSA seeks to amend its Certificate to:

1. Add each of the following companies as a new "Member" of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)): Guardian Industries Corp., Auburn Hills, Michigan; Alpha Inc., Bridgewater, New Jersey; LyondellBasell Industries A.F.S.C.A., Rotterdam, The Netherlands; and Dawn K. Peterson, Katy, Texas;
2. Delete the following companies as "Members" of the Certificate: Arch