

Polychloroprene Rubber From Japan, 67 FR 58 (January 2, 2002). While no single factor or combination of factors will necessarily provide a dispositive indication of a successor-in-interest relationship, the Department will generally consider the new company to be the successor to the previous company if the new company's resulting operation is not materially dissimilar to that of its predecessor. See *Fresh and Chilled Atlantic Salmon From Norway: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 64 FR 9979 (March 1, 1999), and *Industrial Phosphoric Acid From Israel: Final Results of Antidumping Duty Changed Circumstances Review*, 59 FR 6944 (February 14, 1994).

Thus, if the evidence demonstrates that, with respect to the production and sale of subject merchandise, the new company operates as the same business entity as the former company, the Department will accord the new company the same antidumping treatment as its predecessor.

Additionally, in changed-circumstances reviews where the Department determines that a successor company is a successor-in-interest to a predecessor company that had not been subject to the order previously, the Department's practice is to apply the determination back to the date of the occurrence that prompted the changed-circumstances review. See *Certain Carbon Steel Butt-Weld Pipe Fittings From Thailand: Final Results of Changed-Circumstances Antidumping Duty Review*, 74 FR 8904 (February 27, 2009), and accompanying Issues and Decision Memorandum at Comment 1; see also *Stainless Steel Wire Rod from Italy: Notice of Final Results of Changed Circumstances Antidumping Duty Review*, 71 FR 24643, 24644 (April 26, 2006), and *Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom: Final Results of Changed-Circumstances Antidumping and Countervailing Duty Administrative Reviews*, 64 FR 66880, 66881 (November 30, 1999).

We preliminarily determine that SKF Aeroengine is the successor-in-interest to SNFA. In its February 6, 2009, submission, SKF Aeroengine provided evidence supporting its claim to be the successor-in-interest to SNFA. Specifically, SKF Aeroengine submitted its Managing Director's declaration that the September 3, 2007, name change of the company did not result in changes in management, production facilities, product mix, sales channels, supplier base, or customer base. Moreover, in the declaration, the Managing Director also stated that there are no plans to alter

either the production facilities or product mix of SKF Aeroengine, there are no plans to integrate SKF Aeroengine's production with that of either SKF France S.A. or SKF Aerospace France S.A.S., and that SKF Aeroengine continues to operate as a separate and distinct business apart from the other SKF entities located in France. According to the declaration, SKF Aeroengine employs the same channels of distribution, payment terms, and delivery modes to serve the same customer base as SNFA had used. SKF Aeroengine also submitted an outline of its senior officers and board of directors both before and after its name change to demonstrate that the name change did not affect its senior management. Finally, SKF Aeroengine submitted an outline of the senior officers and boards of directors of SKF France S.A. and SKF Aerospace France S.A.S. both before and after the name change to demonstrate that the name change did not result in changes to the senior management of either SKF France S.A. or SKF Aerospace France S.A.S.

In summary, SKF Aeroengine has presented evidence to establish a prima facie case of its successorship status. The record indicates that SNFA's name change to SKF Aeroengine has not changed the operations of the company in a meaningful way. SKF Aeroengine's management, production facilities, supplier relationships, and customer base are substantially unchanged from those of SNFA. The record evidence demonstrates that the new entity operates essentially in the same manner as the predecessor company. Consequently, we preliminarily determine that SKF Aeroengine should be assigned the same antidumping-duty treatment as SNFA.

Public Comment

Case briefs from interested parties may be submitted not later than 30 days after the date of publication of this notice of preliminary results of changed-circumstances review. Rebuttal briefs from interested parties, limited to the issues raised in the case briefs, may be submitted not later than five days after the time limit for filing the case briefs or comments. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument a statement of the issue, a summary of the arguments not exceeding five pages, and a table of statutes, regulations, and cases cited.

Interested parties who wish to request a hearing or to participate in a hearing if a hearing is requested must submit a written request to the Assistant Secretary for Import Administration

within 30 days of the date of publication of this notice. See 19 CFR 351.310(c). Such requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those discussed in the case briefs. If requested, any hearing will be held two days after the scheduled date for submission of rebuttal briefs.

The Department will publish in the **Federal Register** a notice of the final results of this changed-circumstances review, including the results of its analysis of issues raised in any written briefs or at the hearing if requested.

As indicated in the *CCR Initiation*, during the course of this changed-circumstances review we will not change any cash-deposit requirements on entries of merchandise subject to the antidumping duty order unless a change is determined to be warranted pursuant to the final results of this review.

We are issuing and publishing these preliminary results and notice in accordance with sections 751(b) and 777(i)(1) of the Act and 19 CFR 351.216.

Dated: June 2, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-839]

Certain Polyester Staple Fiber from the Republic of Korea: Preliminary Results of the 2007/2008 Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce is conducting an administrative review of the antidumping duty order on certain polyester staple fiber from the Republic of Korea. The period of review is May 1, 2007, through April 30, 2008. This review covers imports of certain polyester staple fiber from one producer/exporter. We preliminarily find that sales of the subject merchandise have been made below normal value. If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties. Interested parties are invited to comment on these

preliminary results. We will issue the final results not later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: June 9, 2009

FOR FURTHER INFORMATION CONTACT:

Shelly Atkinson or Brandon Farlander, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482-0116 and (202) 482-0182, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 25, 2000, the Department of Commerce ("Department") published an antidumping duty order on certain polyester staple fiber ("PSF") from the Republic of Korea ("Korea"). See *Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber From the Republic of Korea and Antidumping Duty Orders: Certain Polyester Staple Fiber From the Republic of Korea and Taiwan*, 65 FR 33807 (May 25, 2000). On May 5, 2008, the Department published a notice of "Opportunity to Request Administrative Review" of this order. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 73 FR 24532 (May 5, 2008). On May 29, 2008, Huvis Corporation ("Huvis") requested an administrative review. On May 30, 2008, Wellman, Inc.; DAK Americas LLC; and Invista, S.a.r.l. (collectively, "the petitioners") requested an administrative review of Huvis. On July 1, 2008, the Department published a notice initiating the review with respect to Huvis.¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 73 FR 37409 (July 1, 2008). The period of review ("POR") is May 1, 2007, through April 30, 2008.

On July 17, 2008, we issued the antidumping questionnaire in this review. We received responses from Huvis in August and September 2008. In November 2008, February, March, and April 2009, we issued supplemental questionnaires to Huvis. We received responses to these supplemental questionnaires in January, March, April and May 2009.

On February 4, 2009, the Department published in the **Federal Register** an extension of the time limit for the

completion of the preliminary results of this review until no later than June 1, 2009, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), and 19 CFR 351.213(h)(2). See *Certain Polyester Staple Fiber From the Republic of Korea: Extension of Time Limit for the Preliminary Results of the 2007-2008 Antidumping Duty Administrative Review*, 74 FR 6014 (February 4, 2009).

Scope of the Order

For the purposes of the order, the product covered is PSF. PSF is defined as synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The merchandise subject to the order may be coated, usually with a silicon, or other finish, or not coated. PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture. Merchandise of less than 3.3 decitex (less than 3 denier) currently classifiable in the *Harmonized Tariff Schedule of the United States* ("HTSUS") at subheading 5503.20.00.25 is specifically excluded from the order. Also, specifically excluded from the order are polyester staple fibers of 10 to 18 denier that are cut to lengths of 6 to 8 inches (fibers used in the manufacture of carpeting). In addition, low-melt PSF is excluded from the order. Low-melt PSF is defined as a bi-component fiber with an outer sheath that melts at a significantly lower temperature than its inner core.

The merchandise subject to the order is currently classifiable in the HTSUS at subheadings 5503.20.00.45 and 5503.20.00.65. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.

Verification

As provided in section 782(i) of the Act, during April 2008, we verified the sales information provided by Huvis in Korea using standard verification procedures, including examination of relevant sales and financial records, and selection of original documentation containing relevant information. The Department reported its findings on June 1, 2009. See *Memorandum to the File*, "Verification of the Sales Response of Huvis Corporation in the Antidumping Review of Certain Polyester Staple Fiber from the Republic of Korea" dated June 1, 2009. This

report is on file in the Central Records Unit in room 1117 of the main Department building. We plan to verify Huvis' submitted cost information in July 2009.

Fair Value Comparisons

To determine whether Huvis' sales of PSF to the United States 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 below.

Pursuant to section 777A(d)(2) of the Act, we compared the EP of individual U.S. transactions to the weighted-average NV of the foreign-like product, where there were sales made in the ordinary course of trade, as discussed in the "Cost of Production Analysis" section below.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondent in the home market covered by the description in the "Scope of the Order" section, above, to be foreign-like products for purposes of determining appropriate product comparisons to U.S. sales. In accordance with section 773(a)(1) of the Act, in order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the respondent's volume of home market sales of the foreign-like product to the volume of its U.S. sales of the subject merchandise. For further details, see the "Normal Value" section, below.

We compared U.S. sales to monthly weighted-average prices of contemporaneous sales made in the home market. Where there were no contemporaneous sales of identical merchandise in the home market, we compared sales made within the window period, which extends from three months prior to the POR until two months after the POR. See 19 CFR 351.414(e)(2). As directed by section 771(16) of the Act, where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to sales of the most similar foreign-like product made in the ordinary course of trade. Further, as provided in section 773(a)(4) of the Act, where we could not determine NV because there were no sales of identical or similar merchandise made in the ordinary course of trade in the home market to compare to U.S. sales, we compared U.S. sales to constructed value ("CV").

¹ The petitioners also asked for the Department to request CBP import data, for either direct shipments or shipments through Canada or Mexico, under the name "Samyang."

Date of Sale

For its home market sales, Huvis reported invoice date as its date of sale because Huvis permits home market customers to make order changes up to that time. Thus, Huvis' invoices to its home market customers establish the material terms of sale.

For its U.S. sales, Huvis reported date of shipment as its date of sale because it permits U.S. customers to make order changes up to the date of shipment and because the merchandise is always shipped on or before the date of invoice. Thus, the material terms of sale are established on the date of shipment. See *Certain Polyester Staple Fiber from Korea: Preliminary Results of the 2006/2007 Antidumping Duty Administrative Review*, 73 FR 31058, 31060 (May 30, 2008) ("Preliminary Results of 2006/07 Administrative Review"); unchanged in *Certain Polyester Staple Fiber From Korea: Final Results of the 2006–2007 Antidumping Duty Administrative Review*, 73 FR 74144 (December 5, 2008) ("Final Results of 2006/07 Administrative Review"); see also *Certain Cold–Rolled and Corrosion–Resistant Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Reviews*, 63 FR 13170, 13172–73 (March 18, 1998).

Export Price

For sales to the United States, we calculated EP in accordance with section 772(a) of the Act because the merchandise was sold prior to importation by the exporter or producer outside the United States to the first unaffiliated purchaser in the United States, and because constructed export price methodology was not otherwise warranted. Huvis reported sales to the United States based upon four different types of sales terms: free–on board ("FOB"); cost, insurance, and freight ("CIF"); cost and freight ("C&F"); and ex–dock duty paid ("EDDP") FOB. We calculated EP based on these reported prices to unaffiliated purchasers in the United States. Where appropriate, we made deductions, consistent with section 772(c)(2)(A) of the Act, for the following movement expenses: loading fees, inland freight from the plant to port of exportation, foreign brokerage and handling, international freight, marine insurance, and U.S. customs duty (including U.S. brokerage and handling).

We increased EP, where appropriate, for duty drawback in accordance with section 772(c)(1)(B) of the Act. Huvis provided documentation demonstrating that it received duty drawback under

Korea's individual–rate system. In prior investigations and administrative reviews, the Department has examined Korea's individual–rate system and found that the government controls in place generally satisfy the Department's requirements for receiving a duty drawback adjustment (*i.e.*, that (1) the rebates received were directly linked to import duties paid on inputs used in the manufacture of the subject merchandise, and (2) there were sufficient imports to account for the rebates received). See, *e.g.*, *Notice of Final Results of the Eleventh Administrative Review of the Antidumping Duty Order on Certain Corrosion–Resistant Carbon Steel Flat Products from the Republic of Korea*, 71 FR 7513 (February 13, 2006), and accompanying Issues and Decision Memorandum at Comment 2. We examined the documentation submitted by Huvis in this administrative review and confirmed that it meets the Department's two–prong test (mentioned above) for receiving a duty drawback adjustment. Accordingly, we are allowing the reported duty drawback adjustment on Huvis' U.S. sales.

Normal Value

A. Selection of Comparison Market

To determine whether there was a sufficient volume of sales of PSF in the home market to serve as a viable basis for calculating NV, we compared the respondent's home market sales of the foreign–like product to its volume of U.S. sales of the subject merchandise, in accordance with section 773(a) of the Act. Pursuant to sections 773(a)(1)(B) and (C) of the Act, because the respondent's aggregate volume of home market sales of the foreign–like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable for comparison.

B. 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) ("CTL Plate"). In order to

determine whether the comparison market 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"),² including selling functions,³ class of customer ("customer category"), and the level of selling expenses for each type of sale. *Id.*

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),⁴ we consider the starting prices before any adjustments. See *Micron Tech, Inc. v. United States, et al.*, 243 F.3d 1301, 1314–15 (Fed. Cir. 2001) (interpreting Congressional intent to be in accordance with this methodology).

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. sales 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 show that the difference in LOT affects price comparability, we make an LOT adjustment under section 773(a)(7)(A) of the Act.

Huvis reported a single channel of distribution and a single LOT in each market, and has not requested an LOT adjustment. In the single channel of distribution for U.S. sales, merchandise is shipped directly to the customer on an FOB, CIF, C&F, or EDDP–FOB basis. For home market sales, merchandise is delivered to the customer's location or sold on an ex–works basis.

² The marketing process in the United States and comparison markets 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. *CTL Plate*, 62 FR at 61732. In performing this evaluation, we considered the narrative responses of the respondent to properly determine where in the chain of distribution the sale occurs.

³ Selling functions associated with a particular chain of distribution help us to evaluate LOTs in a particular market. *CTL Plate*, 62 FR at 61732. For purposes of these preliminary results, 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.

⁴ Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling, general and administrative ("SG&A") expenses, and profit for CV, where possible. See, *e.g.*, *Certain Polyester Staple Fiber from Korea: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Review*, 70 FR 32756, 32757 (June 6, 2005), unchanged in *Notice of Final Results of Antidumping Duty Administrative Review: Certain Polyester Staple Fiber from the Republic of Korea*, 70 FR 73435 (December 12, 2005).

We examined the information reported by Huvis regarding its marketing process for making the reported home market and U.S. sales, including the type and level of selling activities performed, and customer categories. Specifically, we considered the extent to which the sales process, freight services, warehouse/inventory maintenance, and warranty services varied with respect to the different customer categories (*i.e.*, distributors and end users) within each market and across the markets.

Huvis reported that it made direct sales to distributors and end users in both the home market and to the United States. Also, for sales to the United States, Huvis reported sales to trading companies. For sales in the home market and to the United States, Huvis' selling activities included negotiating sales terms, receiving and processing orders, arranging for freight and delivery, and preparing shipping documents. For each market, Huvis was available to provide technical advice upon a customer's request. For sales in the home market and to the United States, Huvis offered no inventory maintenance services nor advertising, and it did not handle any warranty claims during the POR.

Because the selling functions were similar in both markets, we preliminarily find that a single LOT exists in the home market and in the United States, and that Huvis' home market and U.S. sales were made at the same LOT.

C. Sales to Affiliated Customers

Huvis made sales in the home market to affiliated customers. To test whether these sales were made at arm's length, we compared the starting prices of sales to affiliated customers to those of sales to unaffiliated customers, net of all movement charges, direct and indirect selling expenses, discounts, and packing. Where the price to affiliated parties was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise to the unaffiliated parties, we determined that the sales made to affiliated parties were at arm's length. *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002). In accordance with the Department's practice, we included in our margin analysis only sales to affiliated parties that were made at arm's length.

D. Cost of Production Analysis

In the most recently completed administrative review, we had disregarded some sales by Huvis

because they were made at prices below the cost of production ("COP"). Under section 773(b)(2)(A)(ii) of the Act, previously disregarded below-cost sales provide reasonable grounds to believe or suspect that the respondent made sales of the subject merchandise in its comparison market at prices below the COP within the meaning of section 773(b) of the Act. Whenever the Department has this reason to believe or suspect sales were made below the COP, we are directed by section 773(b) of the Act to determine whether, in fact, there were below-cost sales.

Pursuant to section 773(b)(1) of the Act, we disregard sales from our calculation of NV that were made at less than the COP if they were made in substantial quantities over an extended period of time at prices that would not permit recovery of costs within a reasonable period. We find that the below-cost sales represent "substantial quantities," when 20 percent or more of the respondent's sales of a given product are at prices less than the COP, in accordance with section 773(b)(2)(C) of the Act. Further, in accordance with section 773(b)(2)(B) of the Act, the Department normally considers sales to have been made within an extended period of time when made during a period of one year. Finally, prices do not permit recovery of costs within a reasonable period of time if the per unit COP at the time of sale is below the weighted average per unit COP for the POR, in accordance with section 773(b)(2)(D) of the Act.

Under section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we do not disregard any below-cost sales of that product because such below-cost sales were not made in substantial quantities.

Application of Facts Otherwise Available

Section 776(a)(1) of the Act provides that the Department will apply "facts otherwise available" if the "necessary information is not available on the record." As discussed in the "Calculation of COP" section below, Huvis could not provide market prices for purified terephthalic acid ("PTA") and qualified terephthalic acid ("QTA") as requested by the Department. Therefore, under section 776(a) of the Act, use of facts otherwise available is warranted in determining the market price for PTA and QTA.

1. Calculation of COP

We calculated the COP on a product-specific basis, based on the sum of the

respondent's costs of materials and fabrication for the merchandise under review, plus amounts for SG&A expenses, financial expenses, and the costs of all expenses incidental to placing the foreign-like product packed and in a condition ready for shipment, in accordance with section 773(b)(3) of the Act.

We relied on COP information submitted in Huvis' cost questionnaire responses except for the following adjustments. *See* Memorandum to the File, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results Huvis Corporation," dated June 1, 2009.

(1) In performing our analysis under sections 773(f)(2) and (3) of the Act, we adjusted Huvis' reported cost of manufacturing ("COM") to account for purchases of PTA, modified terephthalic acid ("MTA"), and QTA from affiliated parties at non-arm's-length prices. Under section 773(f)(3) of the Act and 19 CFR 351.407(b), the Department will determine the value of a major input from an affiliated person based on the higher of the transfer price, the market price, or the affiliate's COP.

In the instant review, Huvis could not provide a market price for QTA, as requested in the Department's original and supplemental questionnaires. Therefore, in accordance with sections 773(f)(3) and 776(a) of the Act, we have relied on facts available to make a determination of market value. Consistent with the previous administrative review, we find no evidence on the record to overturn our prior finding that MTA and QTA are interchangeable and can be successfully used in place of one another using similar quantities. *See Final Results of 2006/07 Administrative Review* at Comment 10. Because QTA and MTA are interchangeable, we used the market price for MTA as a proxy for the market price of QTA for the major input analysis. Accordingly, we increased Huvis' reported transfer price of QTA by the percent difference between the reported transfer price of QTA and the higher of the surrogate market price or the affiliate's adjusted COP.

For MTA, we determined the value of this major input based on the higher of the transfer price, the market price, or the affiliate's COP. We adjusted Huvis' reported transfer price of MTA by the percent difference between the reported transfer price and the higher of market price or affiliate's COP.

For PTA, we find that it is not a major input because Huvis' purchases of PTA do not represent a significant percentage

of the total COM of merchandise under review. Under section 773(f)(2) of the Act, the Department may disregard transactions if the transfer price of an input does not fairly reflect the amount usually reflected for sales of that input. Huvis could not provide a market price for this input, as requested in the Department's original and supplemental questionnaires. Therefore, in accordance with sections 773(f)(2) and 776(a) of the Act, we have relied on facts available to make a determination of market value. We constructed a price for the missing market price of this input. This methodology is consistent with our calculation for the proxy market price of PTA in the previous administrative review. See *Final Results of 2006/07 Administrative Review* at Comment 10. Because the market price of PTA exceeded the transfer price, we adjusted Huvis' reported transfer price of PTA by the percent difference between the reported transfer price and the market price.

(2) We adjusted Huvis' reported financial expenses offset by interest on deposits for retirement insurance. Consistent with our treatment of this income in the prior administrative reviews, we excluded this offset because it is not related to interest income incurred on short-term investments of working capital. See *Preliminary Results of 2006/07 Administrative Review*, 73 FR at 31062; unchanged in *Final Results of 2006/07 Administrative Review*.

2. Test of Home Market Prices

On a product-specific basis, we compared the adjusted weighted-average COP figures for the POR to the home market sales of the foreign-like product, as required under section 773(b) of the Act, to determine whether these sales were made at prices below the COP. According to our practice, the prices were exclusive of any applicable movement charges and indirect selling expenses. In determining whether to disregard home market sales made at prices less than their COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which permitted the recovery of all costs within a reasonable period of time.

3. Results of COP Test

We found that, for certain products, more than 20 percent of the respondent's home market sales were at prices less than the POR average COP and, thus, the below-cost sales were

made within an extended period of time in substantial quantities. In addition, these sales were made at prices that did not permit the recovery of costs within a reasonable period of time. Therefore, we excluded these below-cost sales and used the remaining above-cost sales of the same product, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

E. Calculation of Normal Value Based on Home Market Prices

We calculated NV based on the price to affiliated and unaffiliated customers. We made adjustments for differences in packing in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act. We also made adjustments, where appropriate, consistent with section 773(a)(6)(B)(ii) of the Act, for loading fees and for inland freight from the plant to the customer. In addition, we made adjustments for differences in circumstances of sale ("COS"), in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We made COS adjustments, where appropriate, by deducting direct selling expenses incurred on home market sales (*i.e.*, credit expenses and bank charges) and adding U.S. direct selling expenses (*i.e.*, credit expenses and bank charges). See 19 CFR 351.410(c).

Preliminary Results of the Review

We find that the following dumping margin exists for the period May 1, 2007, through April 30, 2008:

Exporter/manufacturer	Weighted-average margin percentage
Huvis Corporation	1.50

Because we have a cost verification scheduled for July 2009, case briefs for this administrative review must be submitted no later than one week after the issuance of the cost verification report. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs, pursuant to 19 CFR 351.309(d)(1), and must be limited to issues raised in the case briefs. Pursuant to 19 CFR 351.310(c), any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held two days after the rebuttal briefs are filed. Issues raised in the hearing will be limited to those raised in the case and rebuttal briefs. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) a statement of the issue and (2) a brief summary of the argument with an electronic version included.

The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs or hearing, within 120 days of publication of these preliminary results. See section 751(a)(3) of the Act.

Assessment Rates

Upon completion of the administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries.

Huvis submitted evidence demonstrating that it was the importer of record for certain of its POR sales. We examined the customs entry documentation submitted by Huvis and tied it to the U.S. sales listing. We noted that Huvis was indeed the importer of record for certain sales. Therefore, for purposes of calculating the importer-specific assessment rates, we have treated Huvis as the importer of record for certain POR shipments. Pursuant to 19 CFR 351.212(b)(1), for all sales where Huvis is the importer of record, Huvis submitted the reported entered value of the U.S. sales and we have calculated importer-specific assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of those sales.

Regarding sales where Huvis was not the importer of record, we note that Huvis did not report the entered value for the U.S. sales in question. Accordingly, we have calculated importer-specific per-unit duty assessment rates for the merchandise in question by aggregating the dumping margins calculated for all U.S. sales to each importer and dividing this amount by the total quantity of those sales. To determine whether the duty assessment rates were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer-specific ad valorem ratios based on the estimated entered value.

Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (*i.e.*, less than 0.50 percent). The Department will issue appraisal instructions directly to CBP 15 days after publication of the final results of review.

The Department clarified its "automatic assessment" regulation on May 6, 2003. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR

produced by companies included in these preliminary results for which the reviewed companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. *Id.*

Cash Deposit Requirements

The following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of PSF from Korea entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for the reviewed company will be the rate established in the final results of this administrative review (except no cash deposit will be required if its weighted-average margin is *de minimis*, i.e., less than 0.50 percent); (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less-than-fair-value investigation or a previous review, the cash deposit rate will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received an individual rate; (3) if the exporter is not a firm covered in this review, the previous review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous reviews, the cash deposit rate will be 7.91 percent, the all-others rate established in *Certain Polyester Staple Fiber from the Republic of Korea: Notice of Amended Final Determination and Amended Order Pursuant to Final Court Decision*, 68 FR 74552 (December 24, 2003).

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 results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 1, 2009.

Ronald K. Lorentzen,

Acting Assistant Secretary for Import Administration.

[FR Doc. E9-13510 Filed 6-8-09; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XP69

Marine Mammals; File No. 14502

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Russell Fielding, Louisiana State University, Room 227, Baton Rouge, Louisiana, 70803, has applied in due form for a permit to import samples from Risso's (*Grampus griseus*), spinner (*Stenella longirostris*), and spotted (*Stenella frontalis*) dolphins and short-finned pilot whales (*Globicephala macrorhynchus*) for the purpose of scientific research.

DATES: Written, telefaxed, or e-mail comments must be received on or before July 9, 2009.

ADDRESSES: The application and related documents are available for review by selecting "Records Open for Public Comment" from the Features box on the Applications and Permits for Protected Species (APPS) home page, <https://apps.nmfs.noaa.gov>, and then selecting File No. 14502 from the list of available applications.

These documents are also available upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713-2289; fax (301)427-2521; and Southeast Region, NMFS, 263 13th Avenue South, Saint Petersburg, Florida 33701; phone (727)824-5312; fax (727)824-5309.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should

set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)427-2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is NMFS.Pr1Comments@noaa.gov. Include in the subject line of the e-mail comment the following document identifier: File No. 14502.

FOR FURTHER INFORMATION CONTACT:

Jennifer Skidmore or Kristy Beard, (301)713-2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant is requesting a scientific research permit to import muscle, blubber, and teeth samples from Risso's, spinner, and spotted dolphins and short-finned pilot whales collected during the legal cetacean hunts of St. Vincent and the Grenadines. Samples from up to 100 individuals will be imported to the NOAA Center for Coastal Fisheries and Habitat Research in Beaufort, North Carolina, for contaminant analysis (specifically methyl-mercury). No animals will be taken to provide samples for this research and no marine mammals will be incidentally harassed. A permit is requested for three months for the importation of samples to occur.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: June 2, 2009.

Tammy C. Adams,

Acting Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E9-13368 Filed 6-8-09; 8:45 am]

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