

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-580-839]

Certain Polyester Staple Fiber from the Republic of Korea: Preliminary Results of the 2008 - 2009 Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce (the "Department") 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, 2008, through April 30, 2009. This review covers imports of certain polyester staple fiber from one manufacturer/exporter. The Department preliminarily finds that sales of the subject merchandise have been made below normal value. If these preliminary results are adopted in the Department's 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. The Department will issue the final results not later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: June 15, 2010.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:**Background**

On May 25, 2000, the 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) (the "Order"). On May 1, 2009, 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*, 74 FR 20278

(May 1, 2009). On May 29, 2009, Huvis Corporation ("Huvis") requested an administrative review. On May 29, 2009, DAK Americas LLC and Invista, S.a.r.L. (collectively, "the petitioners") requested an administrative review of Huvis and Saehan Industries, Inc. ("Saehan"). On June 24, 2009, the Department published a notice initiating the administrative review. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 74 FR 30052 (June 24, 2009).

On July 14, 2009, the petitioners withdrew their request for an administrative review of Saehan and its successor company, Woongjin Chemical Co., Ltd ("Woongjin"). Because the petitioners' request was timely withdrawn and no other parties requested a review of Saehan and Woongjin, pursuant to 19 CFR 351.213(d), the Department partially rescinded this review with respect to these companies. See *Certain Polyester Staple Fiber from the Republic of Korea: Partial Rescission of Ninth Antidumping Duty Administrative Review*, 74 FR 41866 (August 19, 2009).

On August 7, 2009, the Department issued the antidumping questionnaire in this review. The Department received responses from Huvis in September 2009.

On December 16, 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 May 31, 2010, 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).¹ See *Certain Polyester Staple Fiber from the Republic of Korea: Extension of Time Limit for the Preliminary Results of the 2008-2009 Antidumping Duty Administrative Review*, 74 FR 66616 (December 16, 2009).

In December 2009, and January, February, and April 2010, the Department issued supplemental

¹ As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5, through February 12, 2010. See Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm," dated February 12, 2010. Thus, all deadlines in this segment of the proceeding were extended by seven days. The revised deadline for the preliminary results of the 2008 - 2009 antidumping duty administrative review is therefore June 7, 2010. The final results of this review continue to be due 120 days after the publication of the preliminary results.

questionnaires to Huvis. The Department received responses to these supplemental questionnaires in January through May 2010.

Scope of the Order

PSF covered by the scope of the Order 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. The HTSUS subheadings are provided for convenience and customs purposes only; the written description of the merchandise covered by the scope of the Order is dispositive.

Period of Review

The period of review ("POR") is May 1, 2008 through April 30, 2009.

Fair Value Comparisons

To determine whether Huvis's sales of PSF to the United States were made at less than normal value ("NV"), the Department compared export price ("EP") to NV, as described in the "Export Price" and "Normal Value" sections of this notice below.

Pursuant to sections 773(a)(1)(B)(i) and 777A(d)(2) of the Act, the Department compared the EP of individual U.S. transactions to the weighted-average NV of the foreign-like product in the appropriate corresponding calendar month 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)(A) of the Act, the Department considered all products produced and sold by Huvis 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. For further details regarding the Department's selection of a comparison market, see the "Normal Value" section below.

The Department compared Huvis's U.S. sales to the monthly weighted-average prices of contemporaneous sales made in Huvis's home market. Where there were no contemporaneous sales of identical merchandise in Huvis's home market, the Department 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)(B) of the Act, where there were no sales of identical merchandise in Huvis's home market made in the ordinary course of trade to compare to its U.S. sales, the Department compared U.S. sales to sales of the most similar foreign-like product made in the ordinary course of trade. In making product comparisons, the Department matched foreign-like products based on the physical characteristics reported by Huvis in the following order: fiber loft, specialty fibers, fiber type, product grade, cross section, product finish, and product denier.

Date of Sale

Section 351.401(i) of the Department's regulations states that the Department normally will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established. The Department has a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10;

see also *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From Germany*, 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2.

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. The material terms of sale are established on the date of shipment. Therefore, for Huvis's U.S. sales, the Department determines that it is appropriate to use date of shipment as date of sale. The Department's determination is consistent with its determination in the most recently completed administrative review of the Order in which Huvis was examined. See *Certain Polyester Staple Fiber from the Republic of Korea: Preliminary Results of the 2007/2008 Antidumping Duty Administrative Review*, 74 FR 27281 (June 9, 2009); unchanged in *Certain Polyester Staple Fiber from the Republic of Korea: Final Results of the 2007-2008 Antidumping Duty Administrative Review*, 74 FR 65517 (December 10, 2009) ("*Final Results of 2007/2008 Administrative Review*").

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. Huvis's invoices to its home market customers establish the material terms of sale. Therefore, for Huvis's home market sales, the Department determines that it is appropriate to use date of invoice as date of sale. The Department's determination is consistent with its determination in the most recently completed administrative review of the Order in which Huvis was examined. See *id.*

Export Price

For sales to the United States, the Department calculated EP in accordance with section 772(a) of the Act because the merchandise was sold by the exporter or manufacturer outside the United States directly to the first unaffiliated purchaser in the United States prior to importation, and because constructed export price methodology was not otherwise warranted based on the record. Huvis reported sales to the United States based upon three different types of sales terms: free-on board ("FOB"); ex-dock duty paid and cost, insurance, and freight ("EDDP - CIF"); and ex-dock duty paid free-on board ("EDDP - FOB"). The Department calculated EP based on these reported prices to unaffiliated purchasers in the

United States. Where appropriate, the Department 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).

The Department 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. The Department examined the documentation submitted by Huvis in this administrative review and confirmed that Huvis's submissions meet the agency's two-prong test (mentioned above) for receiving a duty drawback adjustment. Accordingly, the Department is applying the reported duty drawback adjustment for Huvis's 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, the Department compared Huvis'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 Huvis's reported 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, the Department determined that the home market was viable for comparison purposes.

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. See *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 Huvis's home market sales were at a different stage in the marketing process than its U.S. sales, the Department reviewed Huvis's 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. See *CTL Plate*, 62 FR at 61732.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices),⁴ the Department considers the starting prices before any adjustments. See *Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1315 (Fed. Cir. 2001) (holding that Congress clearly intended that the Department use the

starting price, *i.e.*, the unadjusted price, when making an LOT comparison for EP sales).

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. See, *e.g.*, *CTL Plate*, 62 FR at 61732. In comparing EP sales at a different LOT in the comparison market, where available data show that the difference in LOT affects price comparability, the Department makes 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 Huvis's single channel of distribution for U.S. sales, merchandise is shipped directly to the customer on an FOB, EDDP-CIF, or EDDP-FOB basis. For home market sales, merchandise is delivered to the customer's location or sold on an ex-works basis.

The Department 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, the Department 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 and U.S. markets. 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's 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. Huvis offered neither inventory maintenance services nor advertising, and it did not handle any warranty claims during the POR for sales in either market.

Because the selling functions were similar in both markets regardless of the customer category, the Department preliminarily finds that a single LOT exists in the home market and in the United States, and that Huvis's home market and U.S. sales were made at this 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, the Department 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, the Department 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 this practice, in the Department's margin analysis, only Huvis's sales to affiliated parties made at arm's length were included.

D. Cost of Production Analysis

In the most recently completed administrative review in which Huvis was examined, the Department disregarded some sales by Huvis because they were made at prices below the cost of production ("COP"). See *Final Results of 2007/2008 Administrative Review*. Under section 773(b)(2)(A)(ii) of the Act, previously disregarded below-cost sales provide reasonable grounds for the Department to believe or suspect that Huvis made sales of the subject merchandise in its home market at prices below the COP in the current POR. 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.

After determining that there are below-cost sales, pursuant to section 773(b)(1) of the Act, the Department may disregard sales that were made at less than the COP from its calculation of NV, if such sales were made in substantial quantities over an extended period of time at prices that would not permit recovery of costs within a reasonable period. The Department will find that a respondent's below-cost sales represent "substantial quantities" when 20 percent or more of the volume of its sales of a foreign-like product are at prices less than the COP; however, where less than 20 percent of the volume of a respondent's sales of a foreign-like product are at prices less than the COP, the Department will not disregard such sales because they are not made in substantial quantities. See Section 773(b)(2)(C) of the Act. Further,

² See, *e.g.*, *CTL Plate*, 62 FR at 61732. The marketing process in the United States and comparison market begins with goods being sold by the manufacturer and extends to the sale to the final user or customer. The final user or customer could be an individual consumer or an industrial user, but the marketing process for all goods starts with a manufacturer and ends with a user. The chain of distribution between the two may have many or few links, and the respondent's sales occur somewhere along this chain. In performing this evaluation, we considered the narrative responses of Huvis 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 ("SGA") 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).

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 the sales are made during a period of one year. Finally, if prices which are below the per-unit COP at the time of sale are not above the weighted-average per-unit COP for the POR, the Department will not consider such prices to provide for the recovery of costs within a reasonable period of time. See Section 773(b)(2)(D) of the Act.

1. Test of Home Market Prices

On a product-specific basis, the Department compared Huvis's adjusted weighted-average COP figures for the POR to its 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. Huvis's home market prices were exclusive of any applicable movement charges, indirect selling expenses, and packing 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.

The Department found that, for certain sales of Huvis's foreign-like product, more than 20 percent of Huvis's sales were at prices below the 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, the Department excluded these below-cost sales and used Huvis's remaining above-cost sales of foreign-like product, made in the ordinary course of trade, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

On April 30, 2010, the Department also requested quarterly cost information from Huvis; however, this information was not received in time for the agency to analyze for use in these preliminary results. The Department intends to analyze this information and issue its findings to parties in a post-preliminary analysis.

2. Calculation of COP

The Department calculated Huvis's COP on a product-specific basis, based on the sum of its 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.

The Department relied on the COP information submitted in Huvis's responses to our cost questionnaires with the following adjustments:

- (1) In performing our analysis under section 773(f)(3) of the Act, we adjusted Huvis's reported cost of manufacturing ("COM") to account for its purchases of modified terephthalic acid ("MTA") and qualified terephthalic acid ("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.

For MTA, the Department determined that Huvis, through its ownership by SK Chemicals Co., Ltd., was affiliated with SK Petrochemicals Co., Ltd. ("SKPC") for part of the POR, May 1, 2008 to December 29, 2008. See Huvis's September 4, 2009 section A questionnaire response at A-12. Therefore, we limited the major input analysis of MTA to the portion of the POR in which Huvis and SKPC were affiliated. Based on our analysis, the Department adjusted Huvis's reported transfer price of MTA during the affiliated period by the percentage difference between the reported transfer price and the higher of market price or the affiliate's COP, in accordance with section 773(f)(3) of the Act and 19 CFR 351.407(b).

Huvis could not provide a market price for its input of QTA as requested in the Department's original and supplemental questionnaires. Therefore, in accordance with section 776(a)(1) of the Act, the Department has determined that it is appropriate to rely on facts available to make a determination of the market value for QTA. Consistent with the previous administrative review of the Order, the Department is using SKPC's market price of MTA as a proxy for the market price of QTA because there is no evidence on the record of this review 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 2007/2008 Administrative Review*. Based on our analysis of the facts available, consistent with the previous administrative review of the Order, we also increased Huvis's reported transfer price of QTA by the

percentage difference between its reported transfer price of QTA and the higher of SKPC's MTA market price or the affiliate's COP for QTA.

- (2) Huvis purchases a third input, ethylene glycol ("EG"), from an affiliated party. Under section 773(f)(2) of the Act, the Department may disregard transactions between affiliated parties if the transfer price for an input does not fairly reflect the amount usually reflected for sales of that input. Because the market price of EG exceeded the transfer price, the Department adjusted Huvis's reported transfer price of EG by the percent difference between the reported transfer price and the market price. For additional information concerning the COP adjustments, see Memorandum to the File, "Preliminary Results Calculation Huvis Corporation," dated June 7, 2010.

E. Calculation of Normal Value

The Department calculated NV based on the prices Huvis reported for its home market sales to unaffiliated customers which were made in the ordinary course of business. The Department added U.S. packing costs and deducted home market packing costs in accordance with sections 773(a)(6)(A) and (B) of the Act, respectively. The Department also made adjustments to NV, where appropriate, consistent with section 773(a)(6)(B)(ii) of the Act, to account for loading fees and for inland freight from the plant to the customer. In addition, the Department made adjustments to NV to account for differences in circumstances of sale ("COS"), in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. The Department made COS adjustments, where appropriate, by deducting direct selling expenses incurred by Huvis on its 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 preliminarily determine that the following weighted-average dumping margin exists for the period May 1, 2008, through April 30, 2009:

Exporter/manufacturer	Weighted-average margin percentage
Huvis Corporation	0.94 percent

The Department will disclose the calculations performed within five days of publication of this notice in

accordance with 19 CFR 351.224(b). 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 42 days after the publication of this notice, or the first workday thereafter. Issues raised in the hearing will be limited to those raised in the case and rebuttal briefs. Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication of this notice. See 19 CFR 351.309(d). However, because we will be issuing a post-preliminary analysis, the briefing schedule may be modified. The Department will notify parties if this becomes necessary. 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 publish the final results of this administrative review, including the results of its analysis of issues raised in the parties' briefs, no later than 120 days after publication of these preliminary results.

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. The Department 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 the Department has 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, the Department notes that Huvis did not report the entered value for the U.S. sales in question. Accordingly, the Department has 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), the Department calculated importer-specific *ad valorem* ratios based on the estimated entered value. For certain U.S. sales, Huvis did not report the importer or entered value. For purposes of calculating importer-specific assessment rates, we considered Huvis's U.S. customer to be the importer of record when the importer was unknown and we calculated entered value as U.S. price net of international movement expenses.

Pursuant to 19 CFR 351.106(c)(2), the Department 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 intends to issue assessment 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. See *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). These deposit requirements, when imposed, shall remain in effect until further notice.

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.

The Department is issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 7, 2010.

Ronald K. Lorentzen,
Deputy Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1685]

Reorganization and Expansion of Foreign-Trade Zone 174 Under Alternative Site Framework, Tucson, AZ

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) in December 2008 (74 FR 1170, 01/12/09;