Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.309(c). Rebuttal briefs limited to issues raised in the case briefs may be filed no later than five days after the time limit for submitting the case briefs. *See* 19 CFR 351.309(d). Parties who submit argument in these proceedings are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Further, parties submitting case briefs and/or rebuttal briefs are requested to provide the Department with an additional copy of the public version of any such argument on diskette. The Department will issue final results of this administrative review, including the results of our analysis of the issues in any such argument or at a hearing, within 120 days of publication of these preliminary results, unless extended. *See* section 751(a)(3)(A) of the Act and 19 CFR 351.213(h).

Duty Assessment

Upon completion of this administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we will calculate importer or customer-specific *ad valorem* assessment rates for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. *See* 19 CFR 351.212(b). Where the duty assessment rates are above *de minimis,* we will instruct CBP to assess duties on all entries of subject merchandise by that importer in accordance with the requirements set forth in 19 CFR 351.106(c)(2). The Department will instruct CBP to assess antidumping duties at the lesser of the cash deposit rate in effect on the date of entry or the final assessment rate, for entries during the period January 30, 2008, through July 27, 2008. *See* section 703(d) of the Act. Pursuant to section 703(d) of the Act, suspension of liquidation was discontinued on July 28, 2008, and no antidumping duties will be assessed on entries made on or after July 28, 2008, through August 3, 2008. For entries made on or after August 4, 2008, through July 31, 2009, if the amount of duties that would be assessed by applying importer or customer specific assessment rates determined herein ("final duties") is different from the amount of duties that would be assessed by applying the estimated duties rate applied to these entries ("provisional duties"), the Secretary will instruct the Customs Service to disregard the difference to the extent that the provisional duties are less than the final duties, and to assess antidumping or countervailing duties at the assessment rate if the provisional duties exceed the final duties. *See* 19 CFR 351.212(d). In accordance with 19 CFR 356.8(a), the Department intends to issue assessment instructions to CBP on or after 41 days following the publication of the final results of this 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 the company included in these preliminary results for which the reviewed company did not know its 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 or company(ies) involved in the transaction.

Cash Deposit Requirements

Furthermore, the following cash deposit requirements will be effective upon completion of the final results of this administrative review, for all shipments of LWRPT from Mexico 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 companies covered by this review (*i.e.,* Maquilacero, Regiopytsa, IMSA, Perfiles y Herrajes, Galvak, Hylsa, Nacional, Prolamsa, and Ternium) will be the rate established in the final results of this review, except if the rate is less than 0.50 percent (*de minimis* within the meaning of 19 CFR 351.106(c)(1)), the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original less-than-fair-value (LTFV) 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 review conducted by the Department, the cash deposit rate will be the all-others rate of 3.76 percent, which is the all-others rate established in the LTFV investigation. *See Order* at 73 FR 45405. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) 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 this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: September 7, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–22777 Filed 9–10–10; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–916]

Laminated Woven Sacks From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review

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

DATES: *Effective Date:* September 13, 2010.

SUMMARY: The Department of Commerce ("the Department") is conducting the first administrative review of the antidumping duty order on laminated woven sacks ("woven sacks") from the People's Republic of China ("PRC") for the period of review ("POR") January 31, 2008, through July 31, 2009. The Department has preliminarily determined that sales have been made below normal value ("NV") by the respondent. If these preliminary results are adopted in our final results of this review, the Department will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. We intend to issue

the final results of this review no later than 120 days from the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: Brandon Farlander, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–0182.

SUPPLEMENTARY INFORMATION:

Background

On August 7, 2008, the Department published in the **Federal Register** the antidumping duty order on woven sacks from the PRC.[1] On August 3, 2009, the Department published a notice of opportunity to request an administrative review of the *Woven Sacks Order*.[2]

The Department received a timely request for an administrative review of the *Woven Sacks Order* from Zibo Aifudi Plastic Packaging Co., Ltd. ("Zibo Aifudi") and Changshu Xinsheng Bags Producing Company, Ltd. ("Changshu Xinsheng Bags") on August 26, 2009, and August 31, 2009, respectively, in accordance with section 751(a) of Tariff Act of 1930, as amended (the "Act"). On September 22, 2009, the Department published in the **Federal Register** a notice of the initiation of an administrative review of the *Woven Sacks Order*.[3] The review was initiated with respect to both Zibo Aifudi and Changshu Xinsheng Bags. On November 6, 2009, Changshu Xinsheng Bags submitted to the Department a timely letter requesting a withdrawal from the ongoing administrative review. On December 17, 2009, the Department rescinded the review with respect to Changshu Xinsheng Bags.[4]

The Department issued supplemental questionnaires to Zibo Aifudi from January to June 2010. The Department received responses to its supplemental questionnaires from Zibo Aifudi from January to July 2010. From January to July 2010, Petitioners[5] submitted comments to the Department regarding the submissions and/or responses of Zibo Aifudi.

On March 3, 2010, the Department released a letter to interested parties which listed potential surrogate countries and invited interested parties to comment on surrogate country and surrogate value ("SV") selection. Between March and July 2010, Petitioners and Zibo Aifudi submitted publicly available SV information, comments, and rebuttal comments on the selection of a surrogate country and SVs. On July 9, 2010, the Department requested additional information and analysis regarding the three financial statements on the record from Petitioners and Zibo Aifudi. For a discussion of the selection of the surrogate country, *see* "Surrogate Country" section below.

On April 20, 2010, and August 16, 2010, pursuant to section 751(a)(3)(A) of the Act, the Department extended the time period for completing the preliminary results by 90 days and 30 days, respectively.[6]

On May 25, 2010, the Department preliminarily determined that the PRC is the country of origin of woven sacks produced in the PRC from imported fabric. As a result, the Department preliminarily determined that the woven sacks produced in the PRC by Zibo Aifudi from imported fabric and imported by Zibo Aifudi into the United States are within the scope of the order.[7]

On August 6, 2010, the Department issued a supplemental questionnaire to Zibo Aifudi regarding its consumption of imported woven fabric. On August 18, 2010, Zibo Aifudi responded to the Department's supplemental questionnaire and provided an explanation, with supporting documentation, of its consumption of imported woven fabric. *See* the Factor Valuation Methodology section below for additional information.

Scope of the Order

The merchandise subject to the order is laminated woven sacks. Laminated woven sacks are bags or sacks consisting of one or more plies of fabric consisting of woven polypropylene strip and/or woven polyethylene strip, regardless of the width of the strip; with or without an extrusion coating of polypropylene and/or polyethylene on one or both sides of the fabric; laminated by any method either to an exterior ply of plastic film such as biaxially-oriented polypropylene ("BOPP") or to an exterior ply of paper that is suitable for high quality print graphics;[8] printed with three colors or more in register; with or without lining; whether or not closed on one end; whether or not in roll form (including sheets, lay-flat tubing, and sleeves); with or without handles; with or without special closing features; not exceeding one kilogram in weight. Laminated woven sacks are typically used for retail packaging of consumer goods such as pet foods and bird seed.

Effective July 1, 2007, laminated woven sacks are classifiable under Harmonized Tariff Schedule of the United States ("HTSUS") subheadings 6305.33.0050 and 6305.33.0080. Laminated woven sacks were previously classifiable under HTSUS subheading 6305.33.0020. If entered with plastic coating on both sides of the fabric consisting of woven polypropylene strip and/or woven polyethylene strip, laminated woven sacks may be classifiable under HTSUS subheadings 3923.21.0080, 3923.21.0095, and 3923.29.0000. If entered not closed on one end or in roll form (including sheets, lay-flat tubing, and sleeves), laminated woven sacks may be classifiable under other HTSUS subheadings including 3917.39.0050, 3921.90.1100, 3921.90.1500, and 5903.90.2500. If the polypropylene strips and/or polyethylene strips making up the fabric measure more than 5 millimeters in width, laminated woven sacks may be classifiable under other HTSUS subheadings including 4601.99.0500, 4601.99.9000, and 4602.90.0000. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

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[1] *See Notice of Antidumping Duty Order: Laminated Woven Sacks From the People's Republic of China,* 73 FR 45941 (August 7, 2008) ("*Woven Sacks Order*").

[2] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 74 FR 38397 (August 3, 2009).

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 74 FR 48224 (September 22, 2009) ("*Initiation Notice*").

[4] *See Laminated Woven Sacks from the People's Republic of China: Partial Rescission of Antidumping Duty Administrative Review,* 74 FR 66954 (December 17, 2009).

[5] Petitioners are the Laminated Woven Sacks Committee and its individual members, Coating Excellence International, LLC and Polytex Fibers Corporation.

[6] *See Laminated Woven Sacks from the People's Republic of China: Extension of the Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review,* 75 FR 20564 (April 20, 2010); *see Laminated Woven Sacks from the People's Republic of China: Extension of the Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review,* 75 FR 49888 (August 16, 2010).

[7] *See* Memorandum to Abdelali Elouaradia, Office Director, AD/CVD Operations, Office 4, from Zhulieta Willbrand, International Trade Analyst, AD/CVD Operations, Office 4, "Preliminary Decision Regarding the Country of Origin of Laminated Woven Sacks Exported by Zibo Aifudi Plastic Packaging Co., Ltd.,—Laminated Woven Sacks from the People's Republic of China" (May 25, 2010).

[8] "Paper suitable for high quality print graphics," as used herein, means paper having an ISO brightness of 82 or higher and a Sheffield Smoothness of 250 or less. Coated free sheet is an example of a paper suitable for high quality print graphics.

Non-Market Economy Treatment

The Department considers the PRC to be a non-market economy ("NME") country.[9] In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. No party has challenged the designation of the PRC as an NME country in this review. Therefore, the Department continues to treat the PRC as an NME country for purposes of these preliminary results.

Surrogate Country

When the Department reviews imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production ("FOPs") valued in a surrogate market-economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market-economy countries that are at a level of economic development comparable to that of the NME country and are significant producers of comparable merchandise. The sources of the SVs that the Department has used in this review are discussed under the "Normal Value" section below.

In this review, the Department determined that India, the Philippines, Indonesia, Thailand, Ukraine, and Peru are countries comparable to the PRC in terms of economic development.[10] Once the countries that are economically comparable to the PRC have been identified, the Department selects an appropriate surrogate country by determining whether an economically comparable country is a significant producer of comparable merchandise and whether the data for valuing FOPs are both available and reliable.

The Department has preliminarily determined that it is appropriate to use India as a surrogate country pursuant to section 773(c)(4) of the Act based on the following: (1) It is at a similar level of economic development to the PRC pursuant to section 773(c)(4) of the Act; (2) it is a significant producer of comparable merchandise; and (3) the Department has reliable data from India that it can use to value the FOPs.[11] Thus, the Department calculated NV using Indian prices when available and appropriate to value the FOPs of Zibo Aifudi. The Department obtained and relied upon publicly available information wherever possible.[12]

In accordance with 19 CFR 351.301(c)(3)(ii), interested parties may submit publicly-available information to value FOPs until 20 days after the date of publication of the preliminary results.[13]

Separate Rates

In proceedings involving NME countries, the Department holds a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of subject merchandise 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. Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* governmental control over export activities. The Department analyzes each entity exporting the subject merchandise under the test announced in the *Notice of 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 further developed in *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*"). However, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a separate rate analysis is not necessary to determine whether it is independent from government control.

The mandatory respondent, Zibo Aifudi, provided evidence that it is a joint venture between PRC and U.S. companies. The Department has analyzed whether Zibo Aifudi has demonstrated the absence of *de jure* and *de facto* governmental control over its export activities.

a. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export license; (2) legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies.[14] The evidence provided by Zibo Aifudi supports a preliminary finding that all of the above criteria have been satisfied.[15]

Specifically, the evidence provided by Zibo Aifudi supports a preliminary finding of *de jure* absence of governmental control based on the following: (1) An absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) the existence of applicable legislative enactments decentralizing control of Chinese companies; and (3) the implementation of formal measures by the government decentralizing control of Chinese companies.[16]

b. Absence of De Facto Control

Typically, the Department considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in

[9] *See, e.g., Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China,* 72 FR 30758, 30760 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China,* 72 FR 60632 (October 25, 2007).

[10] *See* Memorandum from Kelly Parkhill, Acting Director, Office of Policy, to Robert Bolling, Program Manager, AD/CVD Operations, Office 4, "Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Laminated Woven Sacks from the People's Republic of China" (January 25, 2010).

[11] Petitioners submitted surrogate country information and recommended India as the surrogate country. *See* Petitioners' March 12, 2010 surrogate country comments.

[12] *See* Memorandum to the File from Brandon Farlander, International Trade Compliance Analyst, AD/CVD Operations, Office 4, "Administrative Review of Laminated Woven Sacks from the People's Republic of China: Surrogate Value Memorandum," (September 3, 2010) ("Surrogate Value Memorandum").

[13] In accordance with 19 CFR 351.301(c)(1), for the final results of this administrative review, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information placed on the record. The Department generally will not accept the submission of additional, previously absent-from-the-record alternative surrogate value information pursuant to 19 CFR 351.301(c)(1). *See Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part,* 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum at Comment 2.

[14] *See Sparklers,* 56 FR at 20589.

[15] *See* Zibo Aifudi's Section A response, dated October 26, 2009, at 4–7.

[16] *Id.*

making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.[17] The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

The evidence provided by Zibo Aifudi supports a preliminary finding of *de facto* absence of governmental control based on record statements and supporting documentation showing that the company: (1) Set its own export prices independent of the government and without the approval of a government authority; (2) has the authority to negotiate and sign contracts and other agreements; (3) maintains autonomy from the government in making decisions regarding the selection of management; and (4) retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses.[18]

Therefore, the evidence placed on the record of this review by Zibo Aifudi demonstrates an absence of *de jure* and *de facto* government control under the criteria identified in *Sparklers* and *Silicon Carbide.* Accordingly, the Department has preliminarily granted Zibo Aifudi separate rate status.[19]

Fair Value Comparison

To determine whether sales of woven sacks to the United States by Zibo Aifudi were made at less than fair value, the Department compared export price ("EP") and constructed export price ("CEP") to NV, as described in the "U.S. Price" and "Normal Value" sections of this notice.

U.S. Price

In accordance with section 772(a) of the Act, the Department used EP as the basis for U.S. price for Zibo Aifudi's sales where the first sale to unaffiliated purchasers was made prior to importation and the use of CEP was not otherwise warranted. In accordance with section 772(c) of the Act, the Department calculated EP for Zibo Aifudi by deducting the following expenses from the starting price charged to the first unaffiliated customer in the United States: Foreign inland freight from the plant to the port of exportation and foreign brokerage and handling. Additionally, for the expenses that were either provided by an NME vendor or paid for using an NME currency, the Department based the expenses on SVs, as appropriate. For details regarding our EP calculations, *see* Memorandum from Brandon Farlander, International Trade Compliance Analyst, AD/CVD Operations, Office 4, to the File, "Administrative Review of Laminated Woven Sacks from the People's Republic of China: Preliminary Analysis Memorandum for Zibo Aifudi Plastic Packaging Co., Ltd." (September 3, 2010) ("Zibo Aifudi Analysis Memo").

In accordance with section 772(b) of the Act, the Department used CEP as the basis for U.S. price for Zibo Aifudi's sales where Zibo Aifudi first sold subject merchandise to its affiliated companies in the United States (AMS Associates, Inc. (d.b.a. Shapiro Packing, Inc.) or Excel Packaging, LLC), which in turn sold subject merchandise to unaffiliated U.S. customers. In accordance with section 772(b) of the Act, CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under sections 772(c) and (d) of the Act. The Department calculated CEP for Zibo Aifudi based on delivered prices to unaffiliated purchasers in the United States and made deductions, where applicable, from the U.S. sales price for movement expenses and appropriate selling adjustments, such as early payment discounts, in accordance with section 772(c)(2)(A) of the Act. These movement expenses included foreign inland freight from the plant to the port of exportation, foreign brokerage and handling, international freight, marine insurance, U.S. customs duty, U.S. brokerage, and U.S. inland freight from port to the U.S. customer. In accordance with section 772(d)(1) of the Act, the Department deducted billing adjustments, early payment discounts, credit expenses and indirect selling expenses from the U.S. price, all of which relate to commercial activity in the United States. Also, the Department deducted CEP profit, in accordance with sections 772(d)(3) and 772(f) of the Act. Additionally, for the expenses that were either provided by an NME vendor or paid for using an NME currency, the Department based the expenses on SVs, as appropriate. For details regarding the CEP calculation, *see* Zibo Aifudi Analysis Memo.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.[20]

As the basis for NV, Zibo Aifudi provided FOPs used in the production of woven sacks. Consistent with section 773(c)(1)(B) of the Act, it is the Department's practice to value the FOPs that a respondent uses to produce woven sacks.

Factor Valuation Methodology

In accordance with section 773(c) of the Act, the Department calculated NV based on FOP data reported by Zibo Aifudi. To calculate NV, the Department multiplied the reported per-unit factor-consumption rates by publicly available Indian SVs. In selecting the SVs, the Department considered the quality, specificity, and contemporaneity of the data.[21] As appropriate, the Department adjusted input prices by including freight costs to make them delivered prices. Specifically, the Department added to Indian import SVs a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where appropriate. This adjustment is

[17] *See Silicon Carbide,* 59 FR at 22586–87; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China,* 60 FR 22544, 22545 (May 8, 1995).

[18] *See* Zibo Aifudi's Section A response, dated October 26, 2009, at 7–10.

[19] *See* "Preliminary Results of Review" section below.

[20] *See, e.g., Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People's Republic of China,* 71 FR 19695, 19703 (April 17, 2006), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China,* 71 FR 53079 (September 8, 2006).

[21] *See, e.g., Fresh Garlic From the People's Republic of China: Final Results of Antidumping Duty New Shipper Review,* 67 FR 72139 (December 4, 2002) and accompanying Issues and Decision Memorandum at Comment 6; *Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms From the People's Republic of China,* 66 FR 31204 (June 11, 2001) and accompanying Issues and Decision Memorandum at Comment 5.

in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp.* v. *United States,* 117 F.3d 1401, 1407–08 (Fed. Cir. 1997). A detailed description of all SVs used for Zibo Aifudi can be found in the Surrogate Value Memorandum, at Exhibit 1.

Zibo Aifudi reported that several of its raw material inputs (*i.e.,* color ink and woven fabric) were sourced from market-economy countries and paid for in market-economy currencies. Pursuant to 19 CFR 351.408(c)(1), when a respondent sources inputs from a market-economy supplier in meaningful quantities (*i.e.,* not insignificant quantities), the Department normally will use the actual price paid by the respondent for those inputs.[22] Because information reported by Zibo Aifudi demonstrates that it purchased significant quantities (*i.e.,* 33 percent or more) of colored ink and woven fabric from market-economy suppliers, the Department used Zibo Aifudi's actual market-economy purchase prices of colored ink and woven fabric to value its FOPs for this input.[23] Where appropriate, freight expenses were added to the market-economy prices of this input. When Zibo Aifudi made market economy colored ink and woven fabric purchases that may have been dumped or subsidized, were not *bona fide,* or were otherwise not acceptable for use in a dumping calculation, the Department excluded them from the numerator of the ratio to ensure a fair determination of whether valid market-economy purchases meet the 33 percent threshold.[24]

In past cases, it has been the Department's practice to value various FOPs using import statistics of the primary selected surrogate country from World Trade Atlas ("WTA"), as published by Global Trade Information Services ("GTIS").[25] However, in a recent case, the *OCTG Final,* the Department explained, based on discussions with GTIS, that the Indian import data obtained from the WTA, as published by GTIS, began identifying the original reporting currency for India as the U.S. Dollar rather than the Indian Rupee, as was previously reported by GTIS for Indian import data.[26] While the original India import data[27] obtained by GTIS is denominated and published in Indian Rupees, in the *OCTG Final,* the Department noted that GTIS made a decision to change the original reporting currency for Indian data from the Indian Rupee to the U.S. Dollar in order to reduce the loss of the number of significant digits when obtaining data through the WTA software. Additionally, in the *OCTG Final,* the Department also noted that subsequently, GTIS restored the ability to view Indian Rupee values in the WTA software for Indian import data. However, because this data was twice converted[28], it was found that this data would not correspond to the original India data based on the WTA software's capability to only handle a limited number of significant digits in each conversion calculation.

Because of the conversion and rounding problems in the data reported by the WTA, the Department will now obtain import statistics from Global Trade Atlas ("GTA"), as published by GTIS, for valuing various FOPs. The data reported in the GTA software reports import statistics, such as from India, in the original reporting currency and thus this data corresponds to the original currency value reported by each country. Additionally, the data reported in the GTA software is reported to the nearest digit and thus there is not a loss of data by rounding, as there is with the data reported by the WTA software. Consequently the import statistics we obtain from GTA are in the original reporting currency of the country from which the data are obtained and have the same level of accuracy as the original data released.

The Department used data from the Indian import statistics in the GTA and other publicly available Indian sources in order to calculate SVs for Zibo Aifudi's FOPs (*i.e.,* direct materials, energy, packing materials) and certain movement expenses. In selecting the best available information for valuing FOPs in accordance with section 773(c)(1) of the Act, the Department's practice is to select, to the extent practicable, SVs which are non-export average values, most contemporaneous with the POR, product-specific, and tax-exclusive.[29] The record shows that data in the GTA Indian import statistics, as well as those from the other Indian sources, are contemporaneous with the POR, product-specific, and tax-exclusive.[30]

In accordance with legislative history, the Department continues to apply its long-standing practice of disregarding SVs if it has a reason to believe or suspect the source data may be subsidized.[31] In this regard, the Department has previously found that it is appropriate to disregard such prices from Indonesia, South Korea and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.[32] Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, the Department finds that it is reasonable to infer that all exporters from Indonesia, South Korea and Thailand may have benefitted from these subsidies. Therefore, the Department has not used prices from these three countries in calculating the Indian import-based SVs.

Additionally, the Department disregarded prices from NME countries. Finally, imports that were labeled as originating from an "unspecified" country were excluded from the average value, because the Department could not be certain that they were not from

[22] *See Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27366 (May 19, 1997).

[23] *See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments,* 71 FR 61716, 61717 (October 19, 2006) ("*Antidumping Methodologies*").

[24] *See Antidumping Methodologies,* 71 FR at 61717–18.

[25] *See e.g., Certain Preserved Mushrooms From the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Review,* 74 FR 50946, 50950 (October 2, 2009).

[26] *See Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances, and Final Determination of Targeted Dumping,* 75 FR 20335 (April 19, 2010) and accompanying Issues and Decision Memorandum at Comment 4 ("*OCTG Final*").

[27] GTIS obtains data on imports into India directly from the Ministry of Commerce, Government of India.

[28] Converted from Indian Rupee to U.S. Dollar, then converted from U.S. Dollar to Indian Rupee.

[29] *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam,* 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam,* 69 FR 71005 (December 8, 2004).

[30] *See* Surrogate Value Memorandum at Exhibit 1.

[31] Omnibus Trade and Competitiveness Act of 1988, Conf. Report To Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) at 590.

[32] *See e.g., Carbazole Violet Pigment 23 From India: Final Results of the Expedited Five-Year (Sunset) Review of the Countervailing Duty Order,* 75 FR 13257 (March 19, 2010) and accompanying Issues and Decision Memorandum at 4–5; *Certain Cut-to-Length Carbon-Quality Steel Plate From Indonesia: Final Results of Expedited Sunset Review,* 70 FR 45692 (August 8, 2005) and accompanying Issues and Decision Memorandum at 4; *Corrosion-Resistant Carbon Steel Flat Products From the Republic of Korea: Final Results of Countervailing Duty Administrative Review,* 74 FR 2512 (January 15, 2009) and accompanying Issues and Decision Memorandum at 17, 19–20; *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand,* 66 FR 50410 (October 3, 2001) and accompanying Issues and Decision Memorandum at 23.

either an NME country or a country with general export subsidies.[33]

Petitioners raised concerns regarding Zibo Aifudi's FOPs for the production of woven sacks from imported woven fabric and we sought additional information from Zibo Aifudi regarding its production of woven sacks from imported woven fabric. At this time, we are still examining this matter and may issue additional supplemental questions regarding Zibo Aifudi's material consumption and production process for woven sacks produced from imported woven fabric. For the preliminary results, we have determined to use Zibo Aifudi's reported FOP data, specifically Zibo Aifudi's FOPs used to produce woven sacks from imported woven fabric, to calculate its margin. *See* Zibo Aifudi Analysis Memo. However, we intend to continue to analyze this issue for the final results.

For direct, indirect, and packing labor, pursuant to a recent decision by the Court of Appeals for the Federal Circuit, we are no longer using the regression based methodology to value labor.[34] Rather, we have calculated an hourly wage rate to use in valuing each respondent's reported labor input by averaging available data for earnings and/or wages in countries that are economically comparable to the PRC, and that are significant producers of comparable merchandise. Because this wage rate does not separate the labor rates into different skill levels or types of labor, the Department has applied the same wage rate to all skill levels and types of labor reported by the respondents.[35]

The Department valued truck freight expenses using a per-unit average rate calculated from data on the infobanc Web site: *http://www.infobanc.com/logistics/logtruck.htm.* The logistics section of this Web site contains inland freight truck rates between many large Indian cities. The value is contemporaneous with the POR.[36]

The Department valued electricity using price data for small, medium, and large industries, as published by the Central Electricity Authority of the Government of India in its publication entitled "Electricity Tariff & Duty and Average Rates of Electricity Supply in India," dated March 2008. These electricity rates represent actual country-wide, publicly available information on tax-exclusive electricity rates charged to industries in India. We did not inflate this value because utility rates represent current rates, as indicated by the effective dates listed for each of the rates provided.[37]

We valued brokerage and handling expenses using a price list of export procedures necessary to export a standardized cargo of goods in India. The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean freight in India that is published in *Doing Business 2009: India,* published by the World Bank. Because these data were current throughout the POR, we did not inflate the value for brokerage and handling.[38]

To value factory overhead, selling, general, and administrative expenses, and profit, the Department used the factory overhead, selling, general and administrative expenses, and profit data from two Indian companies, KG Petrochem Limited, and Emmbi Polyarns Limited, producers of merchandise comparable to the subject merchandise, for the fiscal year April 1, 2008, through March 31, 2009.[39] The Department did not rely on the financial statements of Deccan Polypacks Limited ("Deccan Polypacks") because the record indicates that during this period, Deccan Polypacks received subsidies the Department has previously determined to be countervailable. Consistent with Department practice, we do not use financial statements of a company that we have reason to believe or suspect may have received subsidies, where there are other sufficient reliable and representative data on the record for purposes of calculating the surrogate financial ratios, because the financial statements of companies receiving actionable subsidies are less representative of the financial experience of the relevant industry than the ratios derived from financial statements that do not contain evidence of subsidization.[40] In this case, Deccan Polypacks' 2008–2009 financial statements indicate that Deccan Polypacks received benefits under the Advance License Scheme.[41] India's Advance License Scheme has been found by the Department to provide a countervailable subsidy.[42]

Currency Conversion

The Department made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. These exchange rates are available on the IA Web site at *http://ia.ita.doc.gov/exchange/index.html.*

Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margin exists:

Exporter/producer	Weighted-average percent margin
Zibo Aifudi Plastic Packaging Co., Ltd	0.68

Disclosure

The Department 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).

Public Comment

Interested parties may submit written comments no later than 30 days after the date of publication of these preliminary results of review.[43] Parties that submit comments are requested to submit with each argument a statement of the issue and a brief summary of the argument. Rebuttal comments must be limited to the issues raised in the written comments and may be filed no later than five days after the deadline for filing case briefs.[44] Parties submitting written comments or rebuttals are requested to provide the Department

[33] *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, 24559 (May 5, 2008), unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 73 FR 55039 (September 24, 2008).

[34] *See Dorbest Ltd.* v. *United States,* 604 F.3d 1363, 1372–73 (CAFC 2010).

[35] *See* Surrogate Value Memorandum at Exhibit 2.

[36] *See* Surrogate Value Memorandum at Exhibit 4.

[37] *See* Surrogate Value Memorandum at Exhibit 3.

[38] *See* Surrogate Value Memorandum at Exhibit 5.

[39] *See* Surrogate Value Memorandum at Exhibit 6.

[40] *See Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances,* 73 FR 40485 (July 15, 2008) and accompanying Issues and Decision Memorandum at Comment 17A; *Certain Frozen Warmwater Shrimp From the People's Republic of China: Notice of Final Results and Rescission, in Part, of 2004/2006 Antidumping Duty Administrative and New Shipper Reviews,* 72 FR 52049 (September 12, 2007) and accompanying Issues and Decision Memorandum at Comment 2 (citing *Freshwater Crawfish Tail Meat From the People's Republic of China: Notice of Final Results and Rescission, In Part, of 2004/2005 Antidumping Duty Administrative and New Shipper Reviews,* 72 FR 19174 (April 17, 2007)).

[41] *See* Annual Report 2008–2009, Deccan Polypacks, at 35 of Attachment 2 of Zibo Aifudi's March 31, 2010, surrogate value submission.

[42] *See 1-Hydroxyethylidene-1, 1-Diphosphonic Acid From the People's Republic of China: Final Determination of Sales at Less Than Fair Value,* 74 FR 10545 (March 11, 2009) and accompanying Issues and Decision Memorandum at Comment 1.

[43] *See* 19 CFR 351.309(c)(1)(ii).

[44] *See* 19 CFR 351.309(d).

with an additional copy of those comments on disk. Any interested party may request a hearing within 30 days of publication of these preliminary results.[45] Any hearing, if requested, ordinarily will be held two days after the scheduled date for submission of rebuttal briefs.[46] Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

The Department will issue the final results of the administrative review, which will include the results of its analysis of issues raised in the briefs, within 120 days of publication of these preliminary results, in accordance with 19 CFR 351.213(h)(1) unless the time limit is extended.

Assessment Rates

Pursuant to 19 CFR 351.212, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. For assessment purposes, in accordance with 19 CFR 351.212(b)(1), the Department calculated exporter/importer (or customer)-specific assessment rates for merchandise subject to this review. Where the respondent has reported reliable entered values, the Department calculated importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer). *See* 19 CFR 351.212(b)(1). Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis,* we will apply the assessment rate to the entered value of the importer's/customer's entries during the POR. *See* 19 CFR 351.212(b)(1).

Where we do not have entered values for all U.S. sales, the Department calculated a per-unit assessment rate by aggregating the antidumping duties due for all U.S. sales to each importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer). To determine whether the duty assessment rates are *de minimis,* in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer (or customer)-specific *ad valorem* ratios based on the estimated entered value. Where an importer (or customer)-specific *ad valorem* rate is zero or *de minimis* (*i.e.,* less than 0.50 percent), the Department will instruct CBP to liquidate that importer's (or customer's) entries of subject merchandise without regard to antidumping duties. *See* 19 CFR 351.106(c)(2).

The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this review. The Department intends to instruct CBP to liquidate entries containing subject merchandise exported by the PRC-wide entity at the PRC-wide rate in the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(1) and (a)(2)(C) of the Act: (1) For the exporter listed above, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or *de minimis, i.e.,* less than 0.5 percent, no cash deposit will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 91.73 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. 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.

This determination is issued and published in accordance with section 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

[45] *See* 19 CFR 351.310(c).

[46] *See* 19 CFR 351.310(d).

Dated: September 3, 2010.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2010–22778 Filed 9–10–10; 8:45 am]

BILLING CODE 3510–DS–P

COMMODITY FUTURES TRADING COMMISSION

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–62864; File No. 4–612]

Joint Public Roundtable on Swap Execution Facilities and Security-Based Swap Execution Facilities

AGENCY: Commodity Futures Trading Commission ("CFTC") and Securities and Exchange Commission ("SEC") (each, an "Agency," and collectively, the "Agencies").

ACTION: Notice of roundtable discussion; request for comment.

SUMMARY: On September 15, 2010, commencing at 9 a.m. and ending at 12:30 p.m., staff of the Agencies will hold a public roundtable discussion at which invited participants will discuss swap execution facilities and security-based swap execution facilities in the context of certain authority that Sections 733 and 763 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act") granted to the Agencies respectively. The discussion will be open to the public with seating on a first-come, first-served basis. Members of the public may also listen by telephone. Call-in participants should be prepared to provide their first name, last name, and affiliation. The information for the conference call is set forth below.

- US/Canada Toll-Free: 877–732–6422
- Conference ID: 7772

A transcript of the public roundtable discussion will be published on the SEC's mandatory exchange trading and swap execution facilities rulemaking page at *http://www.sec.gov/spotlight/regreformcomments.shtml.* The transcript also will be available by a link on the CFTC's SEF Registration Requirements and Core Principle Rulemaking, Interpretation & Guidance Web page at *http://www.cftc.gov/LawRegulation/OTCDerivatives/otc_rules.html.* The roundtable discussion will take place in the Auditorium (Room L–002) at the SEC Headquarters located at 100 F Street, NE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: the CFTC's Office of Public Affairs at (202)