

CFR 351.214 (i)(1). The Act further provides that the Department may extend that 180-day period to 300 days if it determines that the case is extraordinarily complicated. *See also* 19 CFR 351.214 (i)(2).

#### Extension of Time Limit of Preliminary Results

The Department determines that this new shipper review involves extraordinarily complicated methodological issues, including Shanghai Colour's multiple production stages for subject merchandise and the need to evaluate the *bona fide* nature of Shanghai Colour's sales. The Department finds that these extraordinarily complicated issues require additional time to evaluate. Therefore, in accordance with section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2), the Department is extending the time limit for the preliminary results by 120 days, until no later than July 25, 2011. The final results continue to be due 90 days after the publication of the preliminary results.

We are issuing and publishing this notice in accordance with sections 751(a)(2)(B)(iv) and 777(i) of the Act.

Dated: February 10, 2011.

#### Gary Taverman,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-924]

#### Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Final Results of the First Antidumping Duty Administrative Review

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

**SUMMARY:** On August 16, 2010, the Department of Commerce ("Department") published the *Preliminary Results* of the first administrative review of the antidumping duty order on polyethylene terephthalate film, sheet, and strip ("PET film") from the People's Republic of China ("PRC").<sup>1</sup> We gave

interested parties an opportunity to comment on the *Preliminary Results*. Based upon our analysis of the comments and information received, we made changes to the margin calculation for the final results. We find that the participating respondents in this review, the two mandatory respondents Fuwei Films (Shandong) Co., Ltd. ("Fuwei Films"), Shaoxing Xiangyu Green Packing Co., Ltd. ("Green Packing"), and Tianjin Wanhua Co., Ltd. ("Wanhua") (collectively, "Respondents"), sold subject merchandise at less than normal value during the period of review ("POR"), November 6, 2008, through October 31, 2009.

**DATES:** *Effective Date:* February 22, 2011.

#### FOR FURTHER INFORMATION CONTACT:

Thomas Martin, 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) 482-3936.

#### SUPPLEMENTARY INFORMATION:

##### Background

As noted above, on August 16, 2010, the Department published the *Preliminary Results* of this administrative review. Between September 28, 2010 and October 5, 2010, we received case and rebuttal briefs from Petitioners<sup>2</sup> and Respondents. On September 28, 2010, we also received written arguments from Bemis Company, Inc., an industrial user of PET film. On October 18, 2010, the Department placed a revised wage rate calculation on the record for comment. Between October 26, 2010 and November 1, 2010, we received comments and rebuttal comments from Petitioners and Respondents regarding the revised wage rate calculation. On November 15, 2010, the Department published a notice extending the time period for issuing the final results by 60 days to February 14, 2011.<sup>3</sup> On November 22, 2010, the Department held a public hearing of the arguments presented in the interested parties' submissions.

<sup>1</sup> 75 FR 49893 (August 16, 2010) ("*Preliminary Results*").

<sup>2</sup> DuPont Teijin Films, Mitsubishi Polyester Film, Inc., SKC, Inc., and Toray Plastics (America), Inc. (collectively, "Petitioners").

<sup>3</sup> *See Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Extension of Time Limit for the Final Results of the Antidumping Duty Administrative Review*, 75 FR 69629 (November 15, 2010).

#### Analysis of Comments Received

All issues raised in the case briefs by parties are addressed in the "Issues and Decision Memorandum for the Final Results in the Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China," which is dated concurrently with this notice ("I&D Memo"). A list of the issues which parties raised, and to which we respond in the I&D Memo, is attached to this notice as an Appendix. The I&D Memo is a public document and is on file in the Central Records Unit ("CRU"), Main Commerce Building, Room 7046, and is accessible on the Department's Web site at <http://www.trade.gov/ia>. The paper copy and electronic version of the memorandum are identical in content.

#### Final Partial Rescission of Administrative Review

In the *Preliminary Results*, the Department preliminarily rescinded the administrative review with respect to Sichuan Dongfang Insulating Material Co., Ltd. ("Dongfang"). Dongfang reported that it had no shipments of subject merchandise to the United States during the POR.<sup>4</sup> As we stated in the *Preliminary Results*, our examination of shipment data from U.S. Customs and Border Protection ("CBP") for Dongfang confirmed that there were no entries of subject merchandise from Dongfang during the POR.<sup>5</sup> We also received no comments or information to change our preliminary rescission. Therefore, we are rescinding this administrative review with respect to Dongfang.

#### Changes Since the Preliminary Results

Based on a review of the record, as well as comments received from parties regarding our *Preliminary Results*, we have made revisions to Respondents' margin calculations for the final results.<sup>6</sup> Pursuant to a recent decision

<sup>4</sup> *See Preliminary Results*, 75 FR at 49894.

<sup>5</sup> *Id.*

<sup>6</sup> In the *Preliminary Results*, the Department stated that it had "valued electricity using rates for large industries at 33 Kilo Volts, as published by the Central Electricity Authority of the Government of India in 'Electricity Tariff & Duty and Average Rates of Electricity Supply in India,' dated March 2008."

*See Preliminary Results*, 75 FR at 49898. This statement in the **Federal Register** notice was an error, as the Department had actually averaged all tax-exclusive rates for electricity for small, medium, and large industries as published in the above-mentioned report. *See Memorandum to the File* through Robert Bolling, Program Manager, AD/CVD Operations, Office 4, from Thomas Martin, International Trade Compliance Analyst, "Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip

Continued

<sup>1</sup> *See Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Preliminary Results and Preliminary Rescission, in Part, of Antidumping Duty Administrative Review,*

by the Court of Appeal for the Federal Circuit<sup>7</sup>, subsequent to the *Preliminary Results*, we calculated a revised hourly wage rate to use in valuing Respondents' reported labor.<sup>8</sup> Additionally, we have: (1) Revised the calculated surrogate overhead, selling, general and administrative expenses, and profit applicable to Respondents using information from the financial statements of JBF Industries Limited, a manufacturer in India of merchandise comparable to subject merchandise;<sup>9</sup> (2) revised the surrogate value for bright polyester chips and master batch chips by using the simple-average of the two weighted average surrogate values for merchandise of Indian Harmonized Tariff Schedule subheadings 3907.60.10 and 3907.6020;<sup>10</sup> (3) revised the surrogate value for steam by using information more contemporaneous with the POR;<sup>11</sup> and (4) recalculated Fuwei Films' indirect selling expenses pursuant to the Department's established policy and practice.<sup>12</sup>

### Scope of the Order

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

from the People's Republic of China: Selection of Factor Values," dated August 9, 2010, at 4. No parties commented on this error, but the Department notes that there is no change with respect to the calculation of the surrogate value for electricity between the *Preliminary Results* and these final results of review.

<sup>7</sup> See *Dorbest Ltd. v. United States*, 604 F.3d 1363 (Fed. Cir. 2010).

<sup>8</sup> See Memorandum from Thomas Martin to The File, "First Administrative Review of the Antidumping Duty Order on Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Industry-Specific Wage Rate Selection," dated October 18, 2010.

<sup>9</sup> See I&D Memo at Comment 2; see also Memorandum to the File through Robert Bolling, Program Manager, AD/CVD Operations, Office 4, from Thomas Martin, International Trade Compliance Analyst, "Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Changes to Surrogate Values for the Final Results of Review," dated February 14, 2011 ("Final Surrogate Values Memorandum") at 2.

<sup>10</sup> See I&D Memo at Comment 3.

<sup>11</sup> See I&D Memo at Comment 4; see also Final Surrogate Values Memorandum at 3.

<sup>12</sup> See I&D Memo at Comment 9.

("HTSUS"). While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

### Non-Market Economy Treatment

The Department considers the PRC to be a non-market economy ("NME") country.<sup>13</sup> In accordance with section 771(18)(C)(i) of the Tariff Act of 1930, as amended ("the Act"), any determination that a foreign country is an NME country shall remain in effect until revoked by the 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 final results.

### Surrogate Country

In the *Preliminary Results*, the Department stated that it selected India as the appropriate surrogate country to use in this administrative review for the following reasons: (1) It is a significant producer of comparable merchandise; (2) it is at a similar level of economic development pursuant to section 773(c)(4) of the Act; and (3) the Department has reliable data from India that it can use to value the factors of production.<sup>14</sup> While the Department received comments on the surrogate country issue after the *Preliminary Results*, the Department has not made changes to its findings with respect to the selection of a surrogate country for the final results.<sup>15</sup>

### 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.<sup>16</sup>

<sup>13</sup> 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).

<sup>14</sup> See *Preliminary Results*, 75 FR at 49896.

<sup>15</sup> See I&D Memo at Comment 1.

<sup>16</sup> See *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), as further developed in *Notice of Final Determination*

In the *Preliminary Results*, the Department found that the two mandatory respondents and Wanhua demonstrated eligibility for separate-rate status.<sup>17</sup> Since the publication of the *Preliminary Results*, no party has commented on the eligibility of the two mandatory respondents and Wanhua for separate-rate status. For the final results, the Department continues to find that the evidence placed on the record of this administrative review by the two mandatory respondents and Wanhua demonstrates both *de jure* and *de facto* absence of government control with respect to each company's respective exports of the subject merchandise. Thus, the Department continues to find that the two mandatory respondents and Wanhua are eligible for separate-rate status.

The separate rate is determined based on the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding zero and *de minimis* margins or margins based entirely on adverse facts available ("AFA").<sup>18</sup> In this administrative review both mandatory respondents, Fuwei Films and Green Packing, have estimated weighted-average dumping margins which are above *de minimis* and which are not based on total AFA. Therefore, because there are only two relevant weighted-average dumping margins for these final results and because using a weighted-average risks disclosure of business proprietary information, the separate rate is a simple-average of these two values, which is 36.93 percent.<sup>19</sup>

### PRC-Wide Entity

In the *Preliminary Results*, the Department determined that certain PRC exporters failed to recertify their separate rates using the separate rate certification provided at the Department's Web site at <http://ia.ita.doc.gov/nme/nme-sep-rate.html> to demonstrate their continued eligibility for separate-rate status. Also, Shanghai Xishu Electric Material Co., Ltd. ("Xishu") and Shanghai Uchem Co., Ltd. ("Uchem") did not make a claim that they did not ship or sell subject merchandise to the United States during the POR.<sup>20</sup> Thus, the Department treated

*of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994).

<sup>17</sup> See *Preliminary Results*, 75 FR at 49895.

<sup>18</sup> See section 735(c)(5)(A) of the Act.

<sup>19</sup> See *Steel Wire Garment Hangers from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 47587, 47591 (August 14, 2008).

<sup>20</sup> See *Preliminary Results*, 75 FR at 49895.

these PRC exporters as part of the PRC-wide entity. The Department also found that the PRC-wide entity did not respond to our requests for information.<sup>21</sup> No additional information was placed on the record with respect to any of these companies after the *Preliminary Results*. Since the PRC-wide entity did not provide the Department with requested information, pursuant to section 776(a)(2)(A) of the Act, the Department continues to find it appropriate to base the PRC-wide rate on facts available.

Because the Department begins with the presumption that all companies within an NME country are subject to government control, and because only the mandatory respondents and Wanhua have overcome that presumption, the Department is applying a single antidumping rate (*i.e.*, the PRC-wide entity rate) to all other exporters of subject merchandise from the PRC. Such companies did not demonstrate entitlement to a separate rate.<sup>22</sup> The PRC-wide entity rate applies to all entries of subject merchandise except for entries from the two mandatory respondents and Wanhua.

#### Final Results of Review

The dumping margins for the POR are as follows:

Exporter	Antidumping duty percent margin
Fuwei Films (Shandong) Co., Ltd. ....	30.91
Shaoxing Xiangyu Green Packing Co., Ltd. ....	42.94
Tianjin Wanhua Co., Ltd. ....	36.93
PRC-wide Entity <sup>23</sup> .....	76.72

<sup>23</sup> Xishu and Uchem are part of the PRC-wide entity.

#### Assessment

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific (or customer) *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. In accordance with 19 CFR 351.106(c)(2), we will

instruct CBP to liquidate, without regard to antidumping duties, all entries of subject merchandise during the POR for which the importer-specific assessment rate is zero or *de minimis*.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of these final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be the rate established in these final results of review (except, if the rate is zero or *de minimis*, *i.e.*, less than 0.5 percent, a zero cash deposit rate 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 which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 76.72 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.

#### Reimbursement of Duties

This notice also serves as a final 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 POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of doubled antidumping duties.

#### Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial

protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: February 14, 2011.

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

#### Appendix I—Issues & Decision Memorandum

- Issue 1: Selection of Surrogate Financial Statements.
- Issue 2: Whether the Department should select Thailand as the surrogate country rather than India.
- Issue 3: Whether the Department should continue to use Indian imports of Harmonized Tariff Schedule ("HTS") classification 3907.60.20 to value Bright Polyester Chip and Master Batch Chip.
- Issue 4: Whether the Department should revise the surrogate value for steam.
- Issue 5: Whether Fuwei Films correctly reported PET film additives in its factors of production ("FOPs").
- Issue 6: Whether Fuwei Films reported all suppliers of FOPs, and all raw materials that it purchased from suppliers and consumed during the POR.
- Issue 7: Whether the Department should revise its CONNUM methodology based on Fuwei Films' FOPs allocation methodology.
- Issue 8: Whether the Department should make further revisions to its labor rate methodology revised after the Preliminary Results.
- Issue 9: Whether the Department should revise Fuwei Films' methodology for calculating indirect selling expenses.
- Issue 10: Whether the Department should have selected Wanhua as a mandatory respondent.
- Issue 11: Whether the Department should revise its methodology for calculating the separate rate for respondents not specifically reviewed.

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

RIN: 0648-XA233

##### New England Fishery Management Council; Public Meeting

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

**ACTION:** Notice; public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) is

<sup>21</sup> *Id.*

<sup>22</sup> See, e.g., *Synthetic Indigo From the People's Republic of China; Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 25706 (May 3, 2000).