

751(a)(2)(C) of the Act: (1) for all PRC exporters, the rate will be the PRC-wide rate, 139.49 percent. (2) for all non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

#### Public Comment

Pursuant to section 351.224(b) of the Department's regulations, the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days of the date of publication of this notice. Pursuant to section 351.309 of the Department's regulations, interested parties may submit written comments in response to these preliminary results. Case briefs should be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, should be submitted no later than five days after the time limit for filing case briefs. Parties who submit arguments in this proceeding are requested to submit with the argument: (1) a statement of the issues, and (2) a brief summary of the argument. Case and rebuttal briefs must be served on interested parties in accordance with section 351.303(f) of the Department's regulations.

Also, pursuant to section 351.310 of the Department's regulations, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs. Parties will be notified of the time and location. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal briefs, not later than 120 days after publication of these preliminary results, unless that deadline is extended.

#### Notification of Interested Parties

This notice also serves as a preliminary reminder to importers of their responsibility under section 351.402(f) of the Department's regulations 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 administrative review and this notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and sections 351.213 and 351.221 of the Department's regulations.

Dated: March 3, 2003.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

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**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-856]

#### Synthetic Indigo from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review

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

**ACTION:** Notice of preliminary results of antidumping duty administrative review.

**SUMMARY:** In response to a timely request from a manufacturer/exporter, the Department of Commerce is conducting an administrative review of the antidumping duty order on synthetic indigo from the People's Republic of China with respect to Liyang Skyblue Chemical Co., Ltd. The period of review is June 1, 2001, through May 31, 2002. As a result of this review, the Department of Commerce has preliminarily determined that sales have been made below normal value by the above-referenced company for the covered period. Interested parties are invited to comment on these preliminary results. If these preliminary results are adopted in our final results of administrative review, we will instruct the Customs Service to assess antidumping duties on all appropriate entries.

**EFFECTIVE DATE:** March 10, 2003.

#### FOR FURTHER INFORMATION CONTACT:

David J. Goldberger or Margarita Panayi, Office 2, AD/CVD Enforcement Group I, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4136 or (202) 482-0049, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Background

On June 19, 2000, the Department of Commerce (the Department) published in the **Federal Register** (65 FR 37961) an antidumping duty order on synthetic indigo from the People's Republic of China (PRC), which was amended on June 23, 2000 (65 FR 39128). On June 26, 2002, Liyang Skyblue Chemical Co., Ltd. (Liyang), a PRC manufacturer/exporter of the subject merchandise, requested, in accordance with 19 CFR 351.213, that we conduct an administrative review of Liyang's exports. On July 24, 2002, the Department published a notice of initiation of an administrative review of the antidumping duty order on synthetic indigo from the PRC with respect to Liyang (67 FR 48435). In July 2002, we issued the antidumping questionnaire to Liyang, and we received its responses in August and September 2002. We issued a supplemental questionnaire to Liyang in October 2002 and received its response in November 2002.

On July 25, 2002, the Department informed the parties of an opportunity to submit publicly available information (PAI) for consideration as surrogate values in these preliminary results. The petitioner, Buffalo Color Corporation, provided such data in November 2002.

#### Scope of Order

The products subject to this order are the deep blue synthetic vat dye known as synthetic indigo and those of its derivatives designated commercially as "Vat Blue 1." Included are Vat Blue 1 (synthetic indigo), Color Index No. 73000, and its derivatives, pre-reduced indigo or indigo white (Color Index No. 73001) and solubilized indigo (Color Index No. 73002). The subject merchandise may be sold in any form (e.g., powder, granular, paste, liquid, or solution) and in any strength. Synthetic indigo and its derivatives subject to this order are currently classifiable under subheadings 3204.15.10.00, 3204.15.40.00 or 3204.15.80.00 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.

#### Period of Review

The period of review (POR) is June 1, 2001 through May 31, 2002.

#### Separate Rates Determination

In previous antidumping duty proceedings, the Department has treated the PRC as a non-market economy (NME) country. We have no evidence

suggesting that this determination should be changed. Accordingly, the Department has determined that NME treatment is appropriate in this review. See section 771(18)(c)(i) of the Act. In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, therefore, should be assigned a single antidumping duty deposit rate (*i.e.*, a PRC-wide rate).

To establish whether a company operating in an NME is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*), as amplified by the *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*). Under this test, companies operating in an NME are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to export activities (*Sparklers*, 56 FR 20589). In this review, the sole respondent is a Hong Kong/PRC joint-venture company and, thus, a separate rates analysis is necessary to determine whether its export activities are independent from government control.

#### 1. Absence of De Jure Control

Evidence supporting, though not requiring, a finding of *de jure* absence of government control over export activities includes: (1) An absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies (*id.*).

The respondent has placed on the record a number of documents to demonstrate absence of *de jure* control, including the "General Principles of the Civil Law of the People's Republic of China" and the "PRC's Enterprise Legal Person Registration Administrative Regulations."

As in prior cases, we have analyzed these laws and have found them to establish sufficiently an absence of *de jure* control of collectively-owned enterprises, joint ventures between PRC and foreign companies, and/or limited liability companies. See, *e.g.*, *Final Determination of Sales at Less than Fair*

*Value: Furfuryl Alcohol from the People's Republic of China (Furfuryl Alcohol)* 60 FR 22544 (May 8, 1995), and *Preliminary Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China*, 60 FR 29571 (June 5, 1995). We have no new information in this review which would cause us to reconsider this determination with regard to Liyang.

#### 2. Absence of De Facto Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. See *Silicon Carbide and Furfuryl Alcohol*. Therefore, 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 Department typically considers four factors in evaluating whether a respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by, or subject to, the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its 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. See *Silicon Carbide and Furfuryl Alcohol*.

Liyang asserted the following: (1) It establishes its own export prices; (2) it negotiates contracts without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales, uses profits according to its business needs, and has the authority to sell its assets and obtain loans. Furthermore, our analysis of Liyang's questionnaire responses reveals no other information indicating government control. This information supports a preliminary finding that there is an absence of *de facto* governmental control of Liyang's export functions. Consequently, we preliminarily determine that Liyang has met the criteria for the application of a separate rate.

#### Fair Value Comparisons

To determine whether sales of the subject merchandise by Liyang to the United States were made at prices below normal value, we compared the export price to the normal value, as described in the "Export Price" and "Normal Value" sections of this notice, below.

#### Export Price

We used export price methodology in accordance with section 772(a) of the Act, because the subject merchandise was sold prior to importation by the exporter outside the United States directly to unaffiliated purchasers in the United States and constructed export price methodology was not otherwise indicated.

We calculated export price based on the packed, CIF price to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight, foreign brokerage and handling, international freight, and marine insurance, in accordance with section 772(c) of the Act. Because these movement services were provided by NME service providers or paid for in an NME currency, we based these expenses on surrogate values from India. To value foreign inland trucking charges, we used a November 1999 average truck freight value based on price quotes from Indian trucking companies obtained in the less-than-fair-value (LTFV) investigation of Bulk Aspirin from the PRC. For rail freight costs, we used 1999–2000 rates published in the July 2001 *Reserve Bank of India Bulletin*. Foreign brokerage and handling expenses were based on November 1999 price quotes from Indian freight forwarders used in the LTFV investigation of Synthetic Indigo from the PRC. Ocean freight was based on publicly available shipping rates between Shanghai, PRC and a U.S. east coast port obtained from the market-economy shipping company Maersk Sealand. For marine insurance, we used public information that was used in the 2000–2001 administrative review of the antidumping duty order on tapered roller bearings and parts thereof, finished and unfinished, from the People's Republic of China. A more detailed discussion of the valuation methodology for these expenses is described in *Preliminary Results Valuation Memorandum*, Memorandum to the File dated March 3, 2003 (*Valuation Memo*).

## Normal Value

### A. Non-Market Economy Status

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. Neither party to this review has contested such treatment. Accordingly, we calculated normal value in accordance with section 773(c) of the Act, which applies to NME countries.

### B. Surrogate Country

Section 773(c)(4) of the Act requires the Department to value the NME producer's factors of production, to the extent possible, in one or more market-economy countries that: (1) Are at a level of economic development comparable to that of the NME, and (2) are significant producers of comparable merchandise. The Department has determined that India, Pakistan, Indonesia, Sri Lanka, and the Philippines are countries comparable to the PRC in terms of overall economic development (see Memorandum from Jeff May, Director, Office of Policy, to Davina Hashmi, Senior Import Compliance Specialist, Office 2, dated July 22, 2002). According to the available information on the record, we have determined that India meets the statutory requirements for an appropriate surrogate country for the PRC. Accordingly, we have calculated normal value using Indian values for the PRC producer's factors of production, except, as noted below, in certain instances where an input was sourced from a market economy and paid for in a market-economy currency. We have obtained and relied upon PAI wherever possible.

### C. Factors of Production

In accordance with section 773(c) of the Act, we calculated normal value based on the factors of production reported by Liyang's affiliated producer, Liyang Brothers Chemical Company, Ltd. To calculate normal value, the reported unit factor quantities for materials, energy and utilities were multiplied by publicly available Indian values, where possible, or, in the case of the auxiliary agent and the wetting agent, by the weighted-average purchase price of materials manufactured in a market-economy country and paid for in a market-economy currency, in accordance with 19 CFR 351.408.

The selection of the surrogate values applied for purposes of this determination was based on the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices to make them delivered prices. For those values not contemporaneous

with the POR and quoted in a foreign currency, we adjusted for inflation using wholesale price indices published in the International Monetary Fund's *International Financial Statistics*. For a complete description of the surrogate values, see the *Valuation Memo*.

We valued raw materials used in the producer's production of the subject merchandise based on data derived from one or more of the following sources:

- The average Indian domestic unit price during the POR derived from the Indian publication *Chemical Weekly* during the POR. We adjusted the average price to exclude the Indian excise tax and state sales tax, where appropriate.
- The average unit import value derived from various editions of *Monthly Statistics of Foreign Trade of India (Indian Import Statistics)*.
- The average daily Indian price based on the Indian newspaper *Economic Times of Bombay*.

For certain materials reportedly consumed in small to very small quantities, such as the dispersing, permeating, integration, and water stabilization agents, we were unable to identify appropriate surrogate values. Therefore, we have not included these factors in our preliminary results normal value calculation.

We have been unable to identify a surrogate value for the input phenylglycinonitrile, which Liyang consumes in one of two production methods used during the POR to produce the intermediate input potassium salt. Therefore, for purposes of the preliminary results, we are valuing all of Liyang's internal potassium salt production using the consumption factors and corresponding surrogate values applicable to the other production method, which does not involve the consumption of phenylglycinonitrile. We will reconsider this methodology for the final results if we obtain surrogate value information for phenylglycinonitrile.

Liyang reported that it resold 33% ferric hydroxide and a mixture of sodium hydroxide and potassium hydroxide as by-products from its synthetic indigo production. However, we did not make an offset deduction to the surrogate cost of production in the preliminary results because we were unable to identify appropriate surrogate values for these materials.

We valued labor based on a regression-based wage rate, in accordance with 19 CFR 351.408(c)(3).

To value electricity, we used the 2000–2001 “revised estimate” average rate for industrial consumption as published in the Government of India's

Planning Commission report, *The Working of State Electricity Boards & Electricity Departments Annual Report (2001–02)*. We based the value of steam coal on the weighted-average unit price data derived from the *Indian Import Statistics* and the financial statements of Indian chemical companies.

To value water, we relied on the publicly available tariff rates reported in the October 1997 publication *Second Water Utilities Data Book: Asian and Pacific Region*. We valued water separately rather than as part of factory overhead (FOH) because the financial statements used to derive FOH and SG&A surrogate values appeared to exclude water consumption expenses (see *Valuation Memo*).

As we have no available information from an Indian producer of synthetic indigo, we based our calculation of FOH, SG&A expenses, and profit on data contained in the 2001–2002 annual reports of Daurala Organics Ltd., an Indian producer of various chemicals including phenylglycine, a chemical intermediate which may be produced during the manufacture of synthetic indigo, and Atul Limited (Atul), an Indian producer of dyes and dye intermediates, as well as bulk and intermediate chemicals, agrochemicals and pharmaceuticals. We have relied on the data from these two companies because a significant portion of each of their businesses is devoted to the manufacture of products similar to synthetic indigo or its intermediate inputs. See the *Valuation Memo* for further discussion.

For the reported packing materials, we used April 2001–December 2001 average unit values derived from *Indian Import Statistics*.

In accordance with the decision in *Sigma Corp. v. United States*, 117 F.3d 1401 (CAFC 1997), when using an import surrogate value, we have added to CIF surrogate values from India a surrogate freight cost using the shorter of the reported distances from either the closest PRC port to the factory, or from the domestic supplier to the factory.

### Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following margin applies to Liyang for the period June 1, 2001, through May 31, 2002:

Manufacturer/producer/exporter	Margin percent
Liyang Skyblue Chemical Co., Ltd.	46.18

Pursuant to 19 CFR 351.309, interested parties may submit written

comments in response to these preliminary results. Case briefs must be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, must be submitted no later than five days after the time limit for filing case briefs. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) A statement of the issue, and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations and cases cited. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

In addition, pursuant to 19 CFR 351.310, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments raised in the case and rebuttal briefs. Any hearing, if requested, will be held two days after the date for submission of rebuttal briefs. Interested parties who wish to request a hearing or to participate if one is requested must submit a written request to the Assistant Secretary for Import Administration, Room B-099, within 30 days of the date of publication of this notice, containing: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in case and rebuttal briefs.

The Department will publish the final results of this administrative review with respect to subject merchandise exports by Liyang, including the results of its analysis of issues raised in any case or rebuttal briefs or at a hearing, not later than 120 days after the date of publication of these preliminary results.

#### Assessment Rates

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sale to the total entered value of that sale. In accordance with 19 CFR 351.106(c)(2), we will instruct the Customs Service 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* (*i.e.*, less than 0.50 percent). The Department will issue appropriate appraisal instructions for the

companies subject to this review directly to the Customs Service upon completion of this review. For entries of the subject merchandise during the POR from companies not subject to this review, we will instruct the Customs Service to liquidate them at the cash deposit rate in effect at the time of entry.

#### Cash Deposit Instructions

Upon completion of this review, for entries from Liyang, we will require a cash deposit at the rate established in the final results as further described below.

The following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of synthetic indigo from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Liyang will be the rate determined in the final results of review (except that if the rate is *de minimis*, *i.e.*, less than 0.50 percent within the meaning of 19 CFR 351.106(c)(1), a cash deposit rate of zero will be required); (2) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding will continue to be the rate assigned in that segment of the proceeding; (3) the cash deposit rate for the PRC NME entity will continue to be 129.60 percent; and (4) the cash deposit rate for non-PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

#### 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.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213.

Dated: March 3, 2003.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

[FR Doc. 03-5632 Filed 3-7-03; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-122-846 and C-122-848]

#### Preliminary Affirmative Countervailing Duty Determinations and Alignment of Final Countervailing Duty Determinations With Final Antidumping Duty Determinations: Certain Durum Wheat and Hard Red Spring Wheat From Canada

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

**ACTION:** Notice of preliminary affirmative countervailing duty determinations

**SUMMARY:** The Department of Commerce preliminarily determines that countervailable subsidies are being provided to producers or exporters of certain durum wheat and hard red spring wheat from Canada. For information on the estimated countervailing duty rates, *see infra* section on "Suspension of Liquidation."

**EFFECTIVE DATE:** March 10, 2003.

#### FOR FURTHER INFORMATION CONTACT:

Craig Matney, Audrey Twyman, Stephen Cho, or Geoffrey Craig, Office of Antidumping/Countervailing Duty Enforcement, Group 1, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-1778, (202) 482-3534, (202) 482-3798 and (202) 482-5256, respectively.

#### Petitioners

The petitioners in these investigations are the North Dakota Wheat Commission (hard red spring wheat), United States Durum Growers Association (durum wheat), and the Durum Growers Trade Action Committee (durum wheat) (collectively, the "petitioners").

#### Case History

Since the publication of the notice of initiation in the **Federal Register** (*see Notice of Initiation of Countervailing Duty Investigations: Durum Wheat and Hard Red Spring Wheat from Canada*, 67 FR 65951 (October 29, 2002) ("*Initiation Notice*")), the following events have occurred: