in accordance with section 351.213(b) of the Department's regulations since the request was made more than four months after the end of the anniversary month. Therefore, the Department is rescinding the review of Iron Bull Industrial Co., Ltd. with respect to the class or kind bars/wedges.

This notice is published in accordance with sections 751(a)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: August 31, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–14917 Filed 9–8–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–427–818)

Low Enriched Uranium from France: Notice of Court Decision and Suspension of Liquidation

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

SUMMARY: On August 3, 2006, the United States Court of International Trade (''CIT'') sustained the Department of Commerce's (''the Department's'') June 19, 2006, Final Results of Redetermination on Remand pursuant to *Eurodif S.A., et. al. v. United States*, Consol. Ct. No. 02–00219, Slip. Op. 06–75 (CIT May 18, 2006) (''LEU Remand Redetermination''), which pertains to the Antidumping Duty Order on Low Enriched Uranium (''LEU'') from France.

Consistent with the decision of the U.S. Court of Appeals for the Federal Circuit (''CAFC'') in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (''*Timken*''), the Department is notifying the public that this decision is ''not in harmony'' with the Department's original determination and will continue to order the suspension of liquidation of the subject merchandise, where appropriate, until there is a conclusive decision in this case. If the case is not appealed, or if it is affirmed on appeal, the Department will instruct U.S. Customs and Border Protection to liquidate all relevant entries from Eurodif S.A./Compagnie Generale Des Matieres Nucleaires (collectively, ''Eurodif'' or ''respondents'').

EFFECTIVE DATE: September 11, 2006.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley or Myrna Lobo, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482–3148 or (202) 482–2371, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 21, 2001, the Department published a notice of final determination in the antidumping duty investigation of LEU from France. *See Notice of Final Determination of Sales at Less Than Fair Value: Low Enriched Uranium From France*, 66 FR 65877 (Dec. 21, 2001) (''LEU Final Determination''). On February 13, 2002, the Department published in the **Federal Register** an amended final determination and antidumping duty order on LEU from France. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Low Enriched Uranium From France*, 67 FR 6680 (Feb. 13, 2002).

Respondents challenged the Department's final determination before the CIT. The case was later appealed and the CAFC, in *Eurodif S.A., Compagnie Generale Des Matieres Nucleaires, and Cogema Inc., et. al. v. United States*, 411 F.3d 1355 (Fed. Cir. 2005) (''*Eurodif I*''), ruled in favor of respondents. The CAFC later clarified its ruling, issuing a decision in *Eurodif S.A., Compagnie Generale Des Matieres Nucleaires, and Cogema Inc., et. al. v. United States*, 423 F. 3d. 1275 (Fed. Cir. 2005) (''*Eurodif II*'').

On January 5, 2006, the CIT remanded the case to the Department for action consistent with the decisions of the Federal Circuit in *Eurodif I* and *Eurodif II*. See *Eurodif S.A., Compagnie Generale Des Matieres Nucleaires, and Cogema Inc. et. al. v. United States*, Slip. Op. 06–2 (CIT Jan. 5, 2006). Specifically, the CIT directed the Department to revise its final determination and antidumping duty order to conform with the decisions in *Eurodif I* and *Eurodif II*.

On March 3, 2006, the Department issued its results of redetermination and recalculated the antidumping duty rate applicable to Eurodif, to comply with the decisions of *Eurodif I* and *Eurodif II*. On May 18, 2006, the CIT again remanded the case to the Department to exclude certain entries from the scope of the order. On June 19, 2006, the Department issued its final results of redetermination pursuant to court remand (''LEU Remand Redetermination''). On August 3, 2006, the CIT sustained the Department's redetermination. *See Eurodif S.A., Compagnie Generale Des Matieres Nucleaires, and Cogema Inc. et. al. v. United States*, Slip. Op. 06–124 (CIT August 3, 2006).

Suspension of Liquidation

The CAFC in *Timken* held that, pursuant to 19 USC 1516(e), the Department must publish notice of a decision of the CIT or the CAFC, which is not ''in harmony'' with the Department's final determination or results. Publication of this notice fulfills that obligation. The Federal Circuit also held that the Department must suspend liquidation of the subject merchandise until there is a ''conclusive'' decision in the case. Therefore, pursuant to *Timken*, the Department must continue to suspend liquidation pending the expiration of the period to appeal the CIT's August 3, 2006, decision.

In the event that the CIT's ruling is not appealed, or if appealed, it is upheld, the Department will publish amended final results and liquidate relevant entries covering the subject merchandise.

Dated: September 5, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–15000 Filed 9–8–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–549–821

Polyethylene Retail Carrier Bags from Thailand: Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: In response to requests from interested parties, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on polyethylene retail carrier bags (PRCBs) from Thailand. The review covers seven manufacturers/exporters. The period of review is January 26, 2004, through July 31, 2005.

We have preliminarily determined that sales have been made below normal value by each of the companies subject to this review. If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries.

We invite interested parties to comment on these preliminary results. Parties who submit comments in this review are requested to submit with each argument (1) a statement of each issue and (2) a brief summary of the argument.

EFFECTIVE DATE: September 11, 2005

FOR FURTHER INFORMATION CONTACT: Thomas Schauer at (202) 482–0410 or Richard Rimlinger at (202) 482–4477, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On August 9, 2004, the Department published in the **Federal Register** the antidumping duty order on polyethylene retail carrier bags from Thailand. *See Antidumping Duty Order: Polyethylene Retail Carrier Bags from Thailand*, 69 FR 48204 (August 9, 2004). On September 28, 2005, in accordance with 19 CFR 351.213(b), we published a notice of initiation of administrative review of this order. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 56631 (September 28, 2005). Since initiation of the review we extended the due date for the completion of these preliminary results of review from May 3, 2006, to August 31, 2006. See *Notice of Extension of Deadline for the Preliminary Results of Antidumping Duty Administrative Review: Polyethylene Retail Carrier Bags from Thailand*, 71 FR 24641 (April 26, 2006), and *Notice of Extension of Deadline for the Preliminary Results of Antidumping Duty Administrative Review: Polyethylene Retail Carrier Bags from Thailand*, 71 FR 42630 (July 27, 2006). The companies for which we have conducted an administrative review of the order on PRCBs from Thailand are as follows: Universal Polybag Co., Ltd., Alpine Plastics, Inc., Advance Polybag Inc., and API Enterprises, Inc. (collectively, UPC/API); Thai Plastic Bags Industries Company Ltd. and APEC Film Ltd. (collectively, TPBG); Apple Film Co., Ltd. (Apple); CP Packaging Industry Co. Ltd. (CP Packaging); King Pac Industrial Co., Ltd. (KPI), Dpac Industrial Co., Ltd. (DPAC), Zippac Co., Ltd. (Zippac), and King Bag Co., Ltd. (King Bag) (collectively, KP); Naraipak Co., Ltd., and Narai Packaging (Thailand) Ltd. (collectively, Naraipak); Sahachit Watana Plastic Ind. Co., Ltd. (Sahachit Watana). Although our initiation notice listed KPI separately, KPI informed us in its response that it was affiliated with DPAC, Zippac, and King Bag and KP submitted a response on behalf of all those firms. Based on information in this consolidated response, we have collapsed these firms into one entity, herein after referred to as KP. See Collapsing Decision Memorandum, dated August 31, 2006. With respect to TPBG, although we initiated an administrative review of Winner's Pack Co., Ltd. (Winner's), this company informed us in its response that it merged with TPBG prior to the period of review. See Winner's/TPBG's November 23, 2005, submission at Exhibit A–11.

Scope of Order

The merchandise subject to this antidumping duty order is polyethylene retail carrier bags (PRCBs) which may be referred to as t–shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non–sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm).

PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, *e.g.*, grocery, drug, convenience, department, specialty retail, discount stores, and restaurants, to their customers to package and carry their purchased products. The scope of the order excludes (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end–uses other than packaging and carrying merchandise from retail establishments, *e.g.*, garbage bags, lawn bags, trash–can liners.

Imports of the subject merchandise are currently classifiable under statistical category 3923.21.0085 of the *Harmonized Tariff Schedule of the United States* (HTSUS). This subheading also covers products that are outside the scope of the order. Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), we have verified information provided by certain respondents using standard verification procedures, including on–site inspection of the manufacturers' facilities, the examination of relevant sales and financial records, and the selection of original documentation containing relevant information. Specifically, we conducted sales and cost verifications of CP Packaging and KP. Our verification results are outlined in the public versions of the verification reports, which are on file in the Central Records Unit (CRU), room B–099 of the main Commerce building. See CP Packaging Sales Verification Report (July 17, 2006) (CP Sales Verification Report), CP Packaging Cost Verification Report (July 17, 2006) (CP Cost Verification Report), KP Sales Verification Report (August 31, 2006), and KP Cost Verification Report (August 31, 2006).

Use of Facts Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides such information but the information cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if that information is necessary to the determination but does not meet all of the requirements established by the Department provided that all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; (5) the information can be used without undue difficulties.

In addition, section 776(b) of the Act provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may use information that is adverse to the interests of that party as facts otherwise available.

With respect to KP, it withheld information, failed to provide information in a timely manner or in the form or manner requested, and significantly impeded the proceeding. As a consequence, we were unable to verify KP's response. See the August 31, 2006, Decision Memorandum to Laurie Parkhill entitled ''Decision to Apply Adverse Facts Available and the Appropriate Rate'' (AFA Memo) for a full discussion on an adverse facts–available treatment with respect to KP. As described in the AFA Memo, based on the difficulties we encountered at verification (see KP Sales and Cost Verification Reports (August 31, 2006)), the use of facts available is necessary. See section 776(a) of the Act. Furthermore, because KP could have provided correct and verifiable data but did not, we determine that KP did not act to the best of its ability. Therefore, the use of an adverse inference is warranted. See section 776(b) of the Act and *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382–83 (Fed. Cir. 2003) (*Nippon Steel*).

As total adverse facts available, we have used the highest rate we found in the less–than-fair–value investigation, which was 122.88 percent. See *Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags from Thailand*, 69 FR 34122–34125 (June 18, 2004) (*Final LTFV*). We applied this rate to Zippac, one of the companies comprising the KP group of companies, as well as to two other non–cooperative companies in the less–than-fair–value investigation. *Id.* See also the AFA Memo for a full discussion on an adverse facts–available treatment with respect to KP.

When a respondent is not cooperative, like KP here, the Department has the discretion to presume that the highest prior margin reflects the current margins. See *Ta Chen Stainless Steel Pipe, Inc. v. United States*, 298 F.3d 1330, 1339 (Fed. Cir. 2002) (citing *Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185, 1190 (Fed. Cir. 1990)). As stated in *Rhone Poulenc*, ''if this were not so, the importer, knowing the rule, would have produced current information showing the margin to be less.'' *Rhone Poulenc*, 899 F.2d at 1190. Further, as stated in *Shanghai Taoen*, ''{t}he purposes of using the highest prior antidumping duty rate are to offer assurance that the exporter will not benefit from refusing to provide information, and to produce an antidumping duty rate that bears some relationship to past practices in the industry in question.'' *Shanghai Taoen Int'l Trading Co. v. United States*, 360 F. Supp. 2d 1339, 1348 (CIT 2005) (citing *D&L Supply Co. v. United States*, 113 F.3d 1220,1223 (Fed. Cir. 1997)).

Section 776(c) of the Act requires that the Department corroborate, to the extent practicable, secondary information from independent sources that are reasonably at its disposal. Secondary information is defined as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' See Statement of Administrative Action (SAA) at 870. The SAA clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. See SAA at 870. Information from a prior segment of this proceeding, such as that used here, constitutes secondary information. See, *e.g.*, *Anhydrous Sodium Metasilicate from France: Preliminary Results of Antidumping Duty Administrative Review*, 68 FR 44283 (July 28, 2003).

As stated in *F.Lii de Cecco di Filippo Fara S. Martino, S.p.A. v. United States*, 216 F.3d 1027, 1030 (2000), to corroborate secondary information, the Department will examine, to the extent practicable, the reliability and relevance of the information. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information. See SAA at 869. The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. See 19 CFR 351.308(d) and SAA at 870.

With respect to the reliability aspect of corroboration, the Department found the rate of 122.88 percent to be reliable in the investigation. See *Final LTFV*, 69 FR at 34123- 34124. There, the Department stated that the rate was calculated from source documents included with the petition, namely, a price quotation for various sizes of PRCBs commonly produced in Thailand, import statistics, and affidavits from company officials, all from a different Thai producer of subject merchandise. See AFA Memo. Because the information is supported by source documents, we preliminarily determine that the information is still reliable.

In making a determination as to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin as ''best information available'' (the predecessor to ''facts available'') since the margin was based on another company's uncharacteristic business expense that resulted in an unusually high dumping margin. Similarly, the Department does not apply a margin that has been discredited. *See D&L Supply Co. v. United States*, 113 F. 3d 1220, 1224 (Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated). None of these unusual circumstances are present here, and there is no evidence indicating that the margin used as facts available in this review is not appropriate.

In the investigation, the Department determined that, because the offer used in the calculation of 122.88 percent reflected commercial practices of the particular industry during the period of investigation, the information was relevant to mandatory respondents that failed to participate in the investigation. See *Final LTFV*, 69 FR at 34123–24. No information has been presented in the current review that calls into question the relevance of this information. Accordingly, we preliminarily determine that the adverse facts–available rate we corroborated in the investigation is relevant to KP in this first administrative review of the order.

KP's failure to cooperate to the best of its abilities in this review has left the Department with an ''egregious lack of evidence.'' See *Shanghai Taoen*, 360 F. Supp. 2d at 1348. Further, because this is the first review of KP (and because Zippac failed to participate in the investigation), there are no probative alternatives. *Id.* Accordingly, by using information that was corroborated in the investigation and preliminarily determined to be relevant to KP in this review, we have corroborated the adverse facts–available rate ''to the extent practicable.'' See section 776(c) of the Act; 19 CFR 351.308(d); *NSK Ltd. v. United States*, 347 F. Supp. 2d 1312, 1336 (CIT 2004) (stating, ''pursuant to the 'to the extent practicable' language . . . the corroboration requirement itself is not mandatory when not feasible'').

With respect to CP Packaging, we found at verification that CP Packaging reported incorrect amounts for inland–freight expenses it incurred for all U.S.

sales we examined. See CP Sales Verification Report at 15. Because we were unable to verify this expense, the use of facts available is necessary. See section 776(a)(2)(D) of the Act. In addition, CP Packaging had the documents necessary to report the correct freight expenses for its U.S. sales. See CP Sales Verification Report at Exhibit 6, which includes the bills from the freight and brokerage suppliers which we used to ascertain the actual freight expense for a particular U.S. sale. Because it did not do so, we find that CP Packaging did not act to the best of its ability in reporting this expense and, accordingly, the use of an adverse inference is necessary. See section 776(b) of the Act; *Nippon Steel*, 337 F.3d at 1382–83. As partial adverse facts available, we used the highest per–kilogram inland–freight expense that CP reported for any U.S. sale.

With respect to CP Packaging, we also found at verification that CP Packaging reported incorrect amounts for the direct–materials expenses it incurred for the three subject models we examined. See CP Cost Verification Report at 14–15. Because we were unable to verify this expense, the use of facts available is necessary. See section 776(a)(2)(D) of the Act. In addition, CP Packaging had the documents necessary to report the correct direct–materials costs for its subject models. See, *e.g.*, CP Cost Verification Report at Exhibit 13, which includes the print product–costing reports which CP could have used to report the correct costs. Because it did not do so, we find that CP Packaging did not act to the best of its ability in reporting this expense and, accordingly, the use of an adverse inference is necessary. See section 776(b) of the Act; *Nippon Steel*, 337 F.3d at 1382–83. With the exception of the merchandise extruded at CP Packaging's Bangplee facility, however, the reported direct materials costs for the other two models for the months we examined was understated by approximately the same proportion. See CP Cost Verification Report at 14–15. We consider the merchandise that CP Packaging extruded at the Bangplee facility to be an unusual situation such that it is unrepresentative of other models CP Packaging produced because it was the only model CP Packaging sold during the period of review that it did not wholly produce at its Rayong facility. See CP Cost Verification Report at 3. Because costs for the other models were off by a similar proportion, as partial adverse facts available, we have restated the direct–materials costs for all models, except the model produced at the Bangplee facility, by increasing the materials costs by the same proportion as the two non–Bangplee models we examined at verification. We restated the materials costs for the model CP Packaging extruded at the Bangplee facility using the amounts we verified for this model.

Export Price and Constructed Export Price

For the price to the United States, we used export price (EP) or constructed export price (CEP) as defined in sections 772(a) and (b) of the Act, as appropriate. We calculated EP and CEP based on the packed F.O.B., C.I.F., or delivered price to unaffiliated purchasers in, or for exportation to, the United States. See section 772(c) of the Act. We made deductions, as appropriate, for discounts and rebates. See section 772(d) of the Act. We also made deductions for any movement expenses in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act and the SAA accompanying the Uruguay Round Agreements Act (URAA), H.R. Rep. No. 103–316, at 823–824, reprinted in 1994 U.S.C.C.A.N. 4040, 4163–64, we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States, which include commissions and direct selling expenses. In accordance with section 772(d)(1) of the Act, we also deducted those indirect selling expenses associated with economic activities occurring in the United States and the profit allocated to expenses deducted under section 772(d)(1) in accordance with sections 772(d)(3) and 772(f) of the Act. In accordance with section 772(f) of the Act, we computed profit based on the total revenues realized on sales in both the U.S. and comparison markets, less all expenses associated with those sales. We then allocated profit to expenses incurred with respect to U.S. economic activity based on the ratio of total U.S. expenses to total expenses for both the U.S. and comparison markets.

Comparison–Market Sales

Based on a comparison of the aggregate quantity of comparison–market and U.S. sales and absent any information that a particular market situation in the exporting country did not permit a proper comparison, with the exception of UPC/API, we determined that the quantity of foreign like product sold by all respondents in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a)(1) of the Act. Aside from UPC/API, each company's quantity of sales in its comparison market was greater than five percent of its sales to the U.S. market. See section 773(a)(1)(c) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based normal value for all respondents except for UPC/API on the prices at which the foreign like product was first sold for consumption in the exporting country in the usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of trade as the EP or CEP sales.

Although UPC/API did not have a viable home market within the meaning of section 773(a)(1)(B)(ii)(II) of the Act, Canada was a viable third–country market for UPC/API under section 773(a)(1)(C) of the Act. Therefore, we based normal value for UPC/API's U.S. sales on the prices at which the foreign like product was first sold for consumption in Canada in the usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of trade as the CEP sales. See section 773(a)(1)(c) of the Act.

Cost of Production

We disregarded below–cost sales in accordance with section 773(b) of the Act in the antidumping duty investigation with respect to PRCBs sold by TPBG. See *Final LTFV*, 69 FR at 34124. Therefore, we have reasonable grounds to believe or suspect that sales of the foreign like product under consideration for the determination of normal value in this review may have been made at prices below the cost of production (COP) as provided by section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we conducted a COP investigation of sales by TPBG in the comparison market.

The petitioners in this proceeding[1] filed allegations that all of the respondents (other than TPBG) made sales below COP in the comparison market. Based on the information in the responses, we found that we had reasonable grounds to believe or suspect that sales of the foreign like product were made at prices that are less than the cost of production of the product by UPC/API, Apple, CP Packaging, KP, and Naraipak. Therefore, pursuant to section 773(b)(1) of the Act, we conducted COP investigations of sales by these firms in the respective

[1] The petitioners are the Polyethylene Retail Carrier Bag Committee and its individual members, Hilex Poly Co., LLC, and Superbag Corporation.

comparison market. We did not find reasonable grounds to believe or suspect that sales of the foreign like product were made at prices that are less than the COP of the product by Sahachit Watana. Therefore, we did not conduct a COP investigation of sales by this firm. See the February 21, 2006, Decision Memorandum to Laurie Parkhill entitled ''Polyethylene Retail Carrier Bags from Thailand - Request to Initiate Cost Investigation for Sahachit Watana Plastic Industry Co., Ltd.'' for a full discussion of our analysis.

In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product, the selling, general, and administrative (SG&A) expenses, and all costs and expenses incidental to packing the merchandise. In our COP analysis, we used the comparison–market sales and COP information provided by each respondent in its questionnaire responses.

After calculating the COP, in accordance with section 773(b)(1) of the Act we tested whether comparison–market sales of the foreign like product were made at prices below the COP within an extended period of time in substantial quantities and whether such prices permitted the recovery of all costs within a reasonable period of time. See section 773(b)(2) of the Act. We compared model–specific COPs to the reported comparison–market prices less any applicable movement charges, discounts, and rebates.

Pursuant to section 773(b)(2)(C) of the Act, when less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below–cost sales of that product because the below–cost sales were not made in substantial quantities within an extended period of time. When 20 percent or more of a respondent's sales of a given product during the period of review were at prices less than the COP, we disregarded the below–cost sales because they were made in substantial quantities within an extended period of time pursuant to sections 773(b)(2)(B) and (C) of the Act and based on comparisons of prices to weighted–average COPs for the period of review, we determined that these sales were at prices which would not permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act. See the Department's preliminary analysis memoranda for UPC/API, Apple, CP Packaging, KP, Naraipak, and TPBG, dated August 31, 2006. Based on this test, we disregarded below–cost sales with respect to all of these companies.

We made several changes to the costs reported by CP Packaging. As discussed under the *Use of Facts Available* section above, we increased the raw–materials costs by the percentage by which the raw–materials costs for models we examined at verification was understated.

In addition, we found at verification that, for some comparison–market products, CP Packaging made a small number of sales to a single domestic customer for which the customer provided replacement raw materials following production. We made an appropriate adjustment to the cost for those sales by the value of the raw materials. See CP Packaging Preliminary Results Analysis Memorandum, dated August 31, 2006.

Finally, we made an adjustment to CP Packaging's reported costs for recycled resin supplied by an affiliated party pursuant to section 773(f)(2) of the Act. Our calculation of the adjustment to CP Packaging's costs for this affiliated–party input is attached to the CP Packaging Preliminary Results Analysis Memorandum, dated August 31, 2006.

UPC/API reported the cost of raw materials purchased from affiliated resellers at transfer price. In accordance with section 773(f)(2) of the Act, the Department is directed to determine whether inputs obtained from affiliated parties reflect arm's–length values. Because the affiliated reseller provided both the raw materials as well as the administrative services related to acquiring the raw materials, there is an administrative cost associated with the purchase of raw materials and with coordinating their delivery. Therefore, to ensure that we have captured the market value of the inputs plus an amount to cover the additional procurement services provided to UPC/API by its affiliates, we have compared transfer prices to adjusted market prices (*i.e.*, the market price of the raw materials plus an amount for the affiliates' SG&A expenses). Where the adjusted market prices were higher than the reported transfer prices, we increased the reported total cost of manufacturing to reflect the adjusted market prices. See the UPC/API Preliminary Results Analysis Memorandum, dated August 31, 2006, for additional information.

Further, UPC/API reported cost data on both a quarterly and period–of-review basis, requesting that the Department use quarterly data due to the significant fluctuation in the cost of resin. It is the Department's normal practice to use annual–average costs to address fluctuations in the production cost over the entire period of review in non–high-inflation cases. See *Certain Steel Concrete Reinforcing Bars from Turkey; Final Results, Recession of Antidumping Duty Administrative Review in Part*, and Determination to Revoke in Part, 70 FR 67665 (November 8, 2005), and accompanying Issues and Decision Memorandum at Comment 1. While our normal practice for a respondent in a country that is not experiencing high inflation is to calculate a single weighted–average cost for the entire period of review, we have used short cost- averaging periods in unusual cases where a company experienced a drastic and consistent change in cost and prices. *Id.* Therefore, we conducted an analysis of UPC/API's reported cost data to determine whether the fluctuation in the cost of resin had an impact on the cost of manufacturing. We found that there was an insignificant difference in the cost of manufacturing when comparing quarterly cost data to cost data for the period of review. For this reason, we have not departed from our normal practice and, accordingly, used UPC/API's reported period–of-review cost data for these preliminary results. See UPC/API Preliminary Results Analysis Memorandum for a more comprehensive description of our analysis.

Finally, UPC/API reported and subtracted from the total cost of manufacturing what it describes as shut–down/start–up costs. Section 773(f)(1)(C)(ii) of the Act allows for an adjustment for start–up operations only where a producer is using new production facilities or producing a new product that requires substantial additional investment and production levels are limited by technical factors associated with the initial phase of commercial production. After evaluating the information provided in UPC/API's questionnaire responses, we found that the expenses identified by UPC/API did not result from start–up operations as described under section 773(f)(1)(C)(ii) of the Act. See UPC/API Preliminary Results Analysis Memorandum for more details. Therefore, we did not allow an adjustment to the cost of manufacturing for the reason of start–up operations.

We determined further that the expenses do not meet the Department's definition of extraordinary expenses (*i.e.*, infrequent in occurrence and unusual in nature). It is the Department's practice to exclude items that are infrequent and unusual from the calculation of reported costs. See *Certain Steel Concrete Reinforcing Bars from Turkey; Final Results, Rescission*

of Antidumping Duty Administrative Review in Part, and Determination Not To Revoke in Part, 69 FR 64731 (November 8, 2004), and accompanying Issues and Decision Memorandum at Comment 13. Because the generally accepted accounting principles (GAAP) of many countries have varying tests of classifying extraordinary items, we test these classifications to ensure that they are the result of events that are unusual and infrequent. See, *e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909 (February 23, 1998); see also *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Japan*,64 FR 30574, 30590–91 (June 8, 1999) (stating that the Department's policy is to exclude ''extraordinary'' expenses provided they are both unusual and infrequent). Based on the information on the record of this review, we do not find that temporary shut–downs in the manufacturing industry are unusual in nature and infrequent in occurrence. See *Notice of Final Determination of Sales at Less Than Fair Value: Fresh Atlantic Salmon From Chile*, 63 FR 31411, 31436 (June 9, 1998), where the Department concluded that costs associated with the temporary shut–down of a facility should be included in the COP. Accordingly, for these preliminary results, we have added back to the total cost of manufacturing the expenses that UPC/API identified and reported as shut–down/start–up expenses.

We made no other adjustments to the cost information the respondents reported.

Model–Match Methodology

We compared U.S. sales with sales of the foreign like product in the comparison market. Specifically, in making our comparisons, we used the following methodology. If an identical comparison–market model was reported, we made comparisons to weighted–average comparison–market prices that were based on all sales which passed the COP test of the identical product during the relevant or contemporary month. We calculated the weighted–average comparison–market prices on a level of trade–specific basis. If there were no contemporaneous sales of an identical model, we identified the most similar comparison–market model. To determine the most similar model, we matched the foreign like product based on the physical characteristics reported by the respondents in the following order of importance: (1) Quality, (2) bag type, (3) length, (4) width, (5) gusset, (6) thickness, (7) percentage of high–density polyethylene resin, (8) percentage of low–density polyethylene resin, (9) percentage of low linear–density polyethylene resin, (10) percentage of color concentrate, (11) percentage of ink coverage, (12) number of ink colors, (13) number of sides printed.

Normal Value

Comparison–market prices were based on the packed, ex–factory, or delivered prices to affiliated or unaffiliated purchasers. When applicable, we made adjustments for differences in packing and for movement expenses in accordance with sections 773(a)(6)(A) and (B) of the Act. We also made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411 and for differences in circumstances of sale in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. For comparisons to EP, we made circumstance–of-sale adjustments by deducting comparison–market direct selling expenses from and adding U.S. direct selling expenses to normal value. For comparisons to CEP, we made circumstance–of-sale adjustments by deducting comparison–market direct selling expenses from normal value. We also made adjustments, when applicable, for comparison–market indirect selling expenses to offset U.S. commissions in EP and CEP calculations and for U.S. indirect selling expenses to offset comparison–market commissions.

In accordance with section 773(a)(1)(B)(i) of the Act, we based normal value, to the extent practicable, on sales at the same level of trade as the EP or CEP. If normal value was calculated at a different level of trade, we made an adjustment, if appropriate and if possible, in accordance with section 773(a)(7)(A) of the Act. See *Level of Trade* section below.

The Department may calculate normal value based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales at arm's–length prices. See 19 CFR 351.403(c). We excluded sales to affiliated customers for consumption in the comparison market that we determined not to be at arm's–length prices from our analysis. To test whether these sales were made at arm's–length prices, the Department compared the prices of sales of comparable merchandise to affiliated and unaffiliated customers, net of all rebates, movement charges, direct selling expenses, and packing. Pursuant to 19 CFR 351.403(c) and in accordance with our practice, when the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise comparable to that sold to the affiliated party, we determined that the sales to the affiliated party were at arm's–length prices. See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002). We included in our calculation of normal value those sales to affiliated parties that were made at arm's–length prices.

As discussed in the *Cost of Production* section above, we found at verification that, for some comparison–market products, CP Packaging made a small number of sales to a single domestic customer for which the customer provided replacement raw materials following production. We made an appropriate adjustment to the price for those sales by the value of the raw materials. See CP Packaging Preliminary Results Analysis Memorandum, dated August 31, 2006.

Constructed Value

In accordance with section 773(a)(4) of the Act, we used constructed value as the basis for normal value when we could not determine normal value due to lack of usable sales of the foreign like product in the comparison market. We calculated constructed value in accordance with section 773(e) of the Act. We included the cost of materials and fabrication, SG&A expenses, U.S. packing expenses, and profit in the calculation of constructed value. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the actual amounts incurred and realized by each respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the comparison market.

When appropriate, we made adjustments to constructed value in accordance with section 773(a)(8) of the Act, 19 CFR 351.410, and 19 CFR 351.412, for circumstance–of-sale differences and level–of-trade differences. For comparisons to EP, we made circumstance–of-sale adjustments by deducting comparison–market direct selling expenses from and adding U.S. direct selling expenses to constructed value. For comparisons to CEP, we made circumstance–of-sale adjustments by deducting comparison–market direct selling expenses from constructed value.

We also made adjustments, when applicable, for comparison–market indirect selling expenses to offset U.S. commissions in EP and CEP comparisons.

When possible, we calculated constructed value at the same level of trade as the EP or CEP. If constructed value was calculated at a different level of trade, we made an adjustment, if appropriate and if possible, in accordance with sections 773(a)(7) and (8) of the Act.

Level of Trade

To the extent practicable, we determined normal value for sales at the same level of trade as the U.S. sales (either EP or CEP). See sections 773(a)(1)(B)(i) and 773(a)(7) of the Act. When there were no sales at the same level of trade, we compared U.S. sales to comparison–market sales at a different level of trade. The normal–value level of trade is that of the starting–price sales in the comparison market. When normal value is based on constructed value, the level of trade is that of the sales from which we derived SG&A and profit. To determine whether comparison–market sales are at a different level of trade than U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer.

No company reported any significant differences in selling functions between different channels of distribution or customer type in either the comparison or U.S. markets. Therefore, for each respondent, we determined that all comparison–market sales were made at one level of trade and that all U.S. sales were made at one level of trade. Moreover, for each respondent that had EP sales, we determined that all comparison–market sales were made at the same level of trade as the EP customer.

For each of the two respondents that had CEP sales (UPC/API and Apple), we found that the comparison–market level of trade was not equivalent to the CEP level of trade and that the CEP level of trade was at a less advanced stage than the comparison–market level of trade. Therefore, we were unable to determine a level–of-trade adjustment based on the respondents' comparison–market sales of the foreign like product. Furthermore, we have no other information that provides an appropriate basis for determining a level–of-trade adjustment. For these respondents' CEP sales, we made a CEP–offset adjustment in accordance with section 773(a)(7)(B) of the Act. The CEP–offset adjustment to normal value was subject to the offset cap, calculated as the sum of comparison–market indirect selling expenses up to the amount of U.S. indirect selling expenses deducted from CEP (or, if there were no comparison–market commissions, the sum of U.S. indirect selling expenses and U.S. commissions).

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following percentage weighted–average dumping margins exist on polyethylene retail carrier bags from Thailand for the period January 26, 2004, through July 31, 2005:

Company	Margin (percent)
UPC/API	14.17
TPBG	1.41
Apple	16.43
CP Packaging	7.75
KP	122.88
Naraipac	1.69
Sahachit Watana	6.34

Comments

We will disclose the calculations used in our analysis to parties to this review within five days of the date of publication of this notice. Any interested party may request a hearing within 30 days of the date of publication of this notice. See 19 CFR 351.310. 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 within 30 days of the date of publication of this notice. Requests should contain the following: (1) the party's name, address, and telephone number; (2) the number of participants; (3) a list of issues to be discussed. See 19 CFR 351.310(c).

Issues raised in the hearing will be limited to those raised in the case and rebuttal briefs. See 19 CFR 351.310(c). Case briefs from interested parties may be submitted not later than 30 days after the date of publication of this notice of preliminary results of review. See 19 CFR 351.309(c)(1)(ii). Rebuttal briefs from interested parties, limited to the issues raised in the case briefs, may be submitted not later than five days after the time limit for filing the case briefs or comments. See 19 CFR 351.309(d)(1). See 19 CFR 351.310(c). Any hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs. See 19 CFR 351.310(d). Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument a statement of the issue, a summary of the arguments not exceeding five pages, and a table of statutes, regulations, and cases cited. See 19 CFR 351.309(c)(2).

The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice. See section 751(a)(3)(A) of the Act.

Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated, whenever possible, an exporter/importer (or customer)-specific assessment rate or value for merchandise subject to this review. Pursuant to 19 CFR 351.212.(b)(1), the Department has calculated importer (or customer)-specific *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. Where entered value is unavailable the Department has calculated importer (or customer)-specific per–unit assessment amounts by dividing the total dumping margin for each importer or customer by the number of units that importer or customer purchased during the period of review.

With respect to KP, because we are relying on total adverse facts available to establish its dumping margin, we preliminarily determine to instruct CBP to apply 122.88 percent to all entries during the period of review which were produced or exported by any of the KP entities (KPI, DPAC, Zippac, and King Bag).

The Department clarified its ''automatic assessment'' regulation on May 6, 2003 (68 FR 23954). This clarification will apply to entries of subject merchandise during the period of review produced by companies included in these preliminary results of review for which the reviewed companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all–others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

The Department will issue appropriate assessment instructions directly to CBP within 15 days of

publication of the final results of review.

Cash–Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of polyethylene retail carrier bags from Thailand entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash–deposit rates for the reviewed companies will be the rates established in the final results of review; (2) for previously investigated companies not listed above, the cash–deposit rate will continue to be the company–specific rate published in the *Notice of Amended Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags from Thailand*, 69 FR 42419 (July 15, 2004); (3) if the exporter is not a firm covered in this review or the less–than-fair–value 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; (4) if neither the exporter nor the manufacturer has its own rate the cash–deposit rate will be 2.80 percent, the ''all others'' rate for this proceeding. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importer

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 Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

These preliminary results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 31, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–14914 Filed 9–11–06; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

(A–580–810, A–583–815)

Continuation of Antidumping Duty Orders on Welded ASTM A–312 Stainless Steel Pipe from Korea and Taiwan

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

SUMMARY: As a result of the determinations by the Department of Commerce (the Department) and the International Trade Commission (ITC) that revocation of the antidumping duty orders on Welded ASTM A–312 Stainless Steel Pipe (WSSP) from Korea and Taiwan would likely lead to continuation or recurrence of dumping, the Department is publishing notice of continuation of these antidumping duty orders.

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith or Dana Mermelstein, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5255 or (202) 482–1391, respectively.

EFFECTIVE DATE: August 28, 2006

SUPPLEMENTARY INFORMATION:

Background

On September 1, 2005, the Department initiated and the ITC instituted sunset reviews of the antidumping duty orders on WSSP from Korea and Taiwan, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). *See Initiation of Five-year (Sunset) Reviews*, 70 FR 52074 (September 1, 2005), and ITC notice of institution on *Certain Welded Stainless Steel Pipe from Korea and Taiwan*, 70 FR 52124 (September 1, 2005). As a result of its review, the Department found that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping, and notified the ITC of the magnitude of the margins likely to prevail were the orders to be revoked. *See Welded ASTM A–312 Stainless Steel Pipe from Korea and Taiwan: Notice of Final Results of Expedited (''Sunset'') Reviews of Antidumping Duty Orders*, 71 FR 96 (January 3, 2006).

On August 22, 2006, the ITC determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty orders on WSSP from Korea and Taiwan would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Certain Welded Stainless Steel Pipe from Korea and Taiwan*, 71 FR 48941 (August 22, 2006) and USITC Publication 3877 (August 2006) (Inv. Nos. 731–TA–540 and 541) (Second Review)).

Scope of the Orders

The merchandise covered by these antidumping duty orders consists of austenitic stainless steel pipe that meets the standards and specifications set forth by the American Society for Testing and Materials (ASTM) for the welded form of chromium–nickel pipe designated ASTM A–312. Welded Stainless Steel Pipe (WSSP) is produced by forming stainless steel flat–rolled products into a tubular configuration and welding along the seam. WSSP is a commodity product generally used as a conduit to transmit liquids or gases. Major applications for WSSP include, but are not limited to, digester lines, blow lines, pharmaceutical lines, petrochemical stock lines, brewery process and transport lines, general food processing lines, automotive paint lines and paper process machines. Imports of these products are currently classifiable under the following United States Harmonized Tariff Schedule (HTS) subheadings for Korea: 7306.40.5005, 7306.40.5015, 7306.40.5045, 7306.40.5060 and 7306.40.5075. Imports of these products are currently classifiable under the following HTS subheadings for Taiwan:

7306.40.1000, 7306.40.5005, 7306.40.5015, 7306.40.5040, 7306.40.5065, and 7306.40.5085. Although these subheadings include both pipes and tubes, the scope of these orders is limited to welded austenitic stainless steel pipes. Although HTS subheadings are provided for convenience and Customs purposes, the written description of the scope remains dispositive.

Continuation of Antidumping Duty Orders

As a result of the determinations by the Department and the ITC that revocation of these antidumping duty orders would likely lead to continuation or recurrence of dumping and material injury in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty orders on WSSP from Korea and Taiwan. U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all