

publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

#### Assessment Rates

Pursuant to 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate assessment instructions directly to CBP 15 days after the publication of the final results of this review. For assessment purposes, where possible, we calculated importer-specific assessment rates for certain lined paper products from the PRC via *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. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any assessment rate calculated in the final results of this review is above *de minimis*. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of these reviews and for future deposits of estimated duties, where applicable.

The Department clarified its "automatic assessment" regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*). This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (e.g., a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the "PRC-wide" rate if there is no rate for the intermediary involved in the transaction. *See Assessment Policy Notice* for a full discussion of this clarification.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for the exporters listed above, the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 established in the final results of this review (except, if the rate is zero or *de minimis*, i.e., less than 0.5 percent, no cash deposit will be

required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 258.21 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

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

Dated: September 29, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-533-843]

#### Certain Lined Paper Products From India: Preliminary Results of the First Antidumping Duty Administrative Review

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

**SUMMARY:** The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain lined paper products from India with respect to 20 companies. The respondents which the Department selected for individual examination are Kejriwal Paper Limited ("Kejriwal") and Ria

ImpEx Pvt. Ltd. ("Ria").<sup>1</sup> The respondents which were not selected for individual examination are listed in the "Preliminary Results of Review" section of this notice. This is the first administrative review of this order. The period of review (POR) is April 17, 2006, through August 31, 2007.

We preliminarily determine that sales made by Kejriwal have not been made at below normal value ("NV"). Because Ria is a selected mandatory respondent and was not responsive to the Department's requests for information, we have preliminarily assigned to Ria a margin based on adverse facts available ("AFA"). In addition, based on the preliminary results for the respondents selected for individual examination, we have preliminarily determined a weighted-average margin for those companies that are subject to review but not selected for individual examination. *See the "Non-Selected Rate" section below for details.* If the 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. Interested parties are invited to comment on the preliminary results.

**DATES:** *Effective Date:* October 7, 2008.

#### FOR FURTHER INFORMATION CONTACT:

Cindy Lai Robinson or George McMahon, AD/CVD Operations, Office 3, Import Administration-Room 1117, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3797 or (202) 482-1167, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On September 28, 2006, the Department published in the **Federal Register** an antidumping duty order on certain lined paper products from India. *See Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and*

<sup>1</sup> See Memorandum to Melissa Skinner, Director, Office 3, AD/CVD Operations, through James Terpstra, Program Manager, from George McMahon, Case Analyst, Regarding *Antidumping Duty Administrative Review of Certain Lined Paper Products from India—Selection of Respondents for Individual Review*, dated November 13, 2007 ("Respondent Selection Memo").

Indonesia, 71 FR 56949 (September 28, 2006) (“*Lined Paper Order*”). On September 4, 2007, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order of certain lined paper products from India for the period April 17, 2006, through August 31, 2007. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 50657 (September 4, 2007). On September 21 and 26, 2007, the Department received timely requests for an administrative review from two respondents, Navneet and Kejriwal, respectively. On September 28, 2007, the Department received a timely request for an administrative review from the Association of American School Paper Suppliers (“AASPS”), the Petitioner,<sup>2</sup> for the following 20 companies: Blue Bird India Ltd.; Creative Divya; Exel India Pvt. Ltd.; FFI International; Global Art India Inc.; Kejriwal Exports; Kejriwal Paper Limited; M/S Super ImpEx.; Magic International; Marigold ExIm Pvt. Ltd.; Marisa International; Navneet Publications (India) Ltd.; Pioneer Stationery Pvt. Ltd.; Rajvansh International; Ria ImpEx Pvt. Ltd.; Riddhi Enterprises; SAB International; TKS Overseas; Unlimited Accessories Worldwide; and V. Joshi Co.

On October 31, 2007, the Department published a notice of initiation of administrative review for those 20 companies.<sup>3</sup> On November 13, 2007, the Department issued a memorandum<sup>4</sup> to interested parties regarding its intention to limit the number of companies examined by using the CBP entry data. In the CBP Memorandum, the Department solicited comments from interested parties regarding the use of CBP data for respondent selection in this review. On November 9 and 20, 2007, the Department received comments regarding respondent selection from Petitioner. On November 19, 2007, the Department received comments regarding respondent selection from Navneet Publications (India) Limited (Navneet). On November 21, 2007, Kejriwal submitted rebuttal comments to Petitioner’s comments

dated November 9, 2007. *See* the “Respondent Selection Memo” for further details.

On December 3, 2007, Petitioner submitted comments with respect to an amendment of model match methodology. *See* below for further details. On January 17, 2008, Petitioner requested an extension for withdrawing its review request. The Department declined Petitioner’s request on January 29, 2008.<sup>5</sup>

Based upon our consideration of the resource constraints and other factors including our current and anticipated workload and deadlines coinciding with the segment in question, we determined that it was not practicable to examine all exporters/producers of subject merchandise for which a review was requested. As a result, on December 17, 2007, we selected the two largest producers/exporters of certain lined paper products from India during the POR (*i.e.*, Kejriwal and Ria) for individual examination, based on the volume information in the CBP data placed on record of this proceeding. *See* the “Respondent Selection Memo.” On this same date, we issued the antidumping questionnaire to Kejriwal and Ria.

On December 3, 2007, we received Petitioner’s comments regarding amendment of model match methodology by narrowing the paper volume categories from 24 to 7 categories. On December 18, 2007, the Department invited interested parties to this proceeding to comment on the methodology that Petitioner proposed.<sup>6</sup> The Department did not receive comments on this matter from any other interested parties. On February 7, 2008, Petitioner requested that the Department adopt the criteria as outlined in its December 3, 2007 comments and revise the model match criteria for this review. In light of the fact that there were no viable comparison market sales of the subject merchandise reported by the mandatory respondents in this proceeding, the Department does not have a sufficient basis to examine the model match issues raised by Petitioner in the context of this review. Therefore, we did not revise the model match criteria for purposes of this review. *See*

the “Normal Value” section below for further details.

On January 23, 2008, we received an e-mail from Ria requesting a five-week extension of the deadline to file its response to the Department’s questionnaire issued on December 17, 2007. Because this request for extension was not properly filed, in accordance with the Department’s filing and service regulations, with the Central Records Unit, the Department issued a letter to Ria on January 23, 2008, instructing Ria to properly file its request and properly serve it on the interested parties. In addition, the Department granted a partial extension until February 6, 2008 for Ria to respond to the Department’s questionnaire. However, Ria did not correct its filing, nor did it submit any questionnaire responses to the Department.

On February 6, 2008, Kejriwal filed its sections A, C, and D response to the Department’s questionnaire. Petitioner provided its comments on Kejriwal’s questionnaire response on February 28, 2008.

On February 7, 2008, Navneet informed the Department that it was unable to submit a voluntary response but indicated that should one of the mandatory respondents not respond, it would request additional time to file its response. On February 13, 2008, Petitioner requested that the Department deny Navneet’s extension request for filing its questionnaire response because Navneet is not a mandatory respondent. On February 20, 2008, the Department denied Navneet’s extension request because the deadline to file a voluntary questionnaire response had passed.

On March 14, 2008, we issued the first sections A-D supplemental questionnaire to Kejriwal. On April 21, 2008, Kejriwal submitted its response to the Department’s first sections A-D supplemental questionnaire, to which Petitioner submitted its comments on May 5, 2008. On May 13 and 28, and July 24, 2008, the Department issued additional section D supplemental questionnaires to Kejriwal, and Kejriwal submitted its responses on May 28, June 17, and August 18, 2008, respectively. On July 11 and August 4, 2008, the Department issued additional sections A and C supplemental questionnaires to Kejriwal, which submitted its responses on July 25 and August 21, 2008, respectively. Petitioner provided further comments and Kejriwal provided its rebuttal comments on sections A, C, and D supplemental questionnaire responses between May 5 and June 9, 2008.

On March 20, 2008, Kejriwal requested an extension for submitting factual information. The Department

<sup>2</sup> The Petitioner made the review request pursuant to section 751(a) of the Tariff Act of 1930, as amended (the Act), and in accordance with 19 CFR 351.213(b)(1).

<sup>3</sup> *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 72 FR 61621 (October 31, 2007).

<sup>4</sup> *See* Memorandum to File entitled “Customs and Border Patrol Data for Selection of Respondents for Individual Review,” dated November 13, 2007 (“CBP Memorandum”).

<sup>5</sup> *See* Memorandum to File, through James Terpstra, Program Manager, Office 3, Office of AD/CVD Operations, from Cindy Robinson, Case Analyst, RE: Certain Lined Paper Products from India, Subject: Meeting with Petitioner, dated January 29, 2008.

<sup>6</sup> *See* Memorandum to all Interested Parties from George McMahon, Case Analyst, re: Request for Comments Regarding Proposed Modifications to the Model Match Criteria, dated December 18, 2007.

granted Kejriwal's extension request.<sup>7</sup> On April 3, 2008, Kejriwal submitted factual information, which includes a public financial statement of Blue Bird India, Ltd. ("Blue Bird"). On April 10, 2008, Petitioner submitted a letter containing certain factual information<sup>8</sup> which, Petitioners claimed, rebuts and clarifies information submitted by Kejriwal on April 3, 2008. On April 11, 2008, Kejriwal filed a letter requesting that the Department remove Petitioner's April 10, 2008, submission from the record of this administrative review on the grounds that Petitioner's submission did not meet the regulatory requirements of 19 CFR 351.301(c)(1) as it did not rebut, clarify or correct information previously on the record. On April 17, 2008, Petitioner rebutted Kejriwal's April 11, 2008, comments, asserting that the prior case decisions referenced by Kejriwal are not applicable because they refer to non-market economy cases. On April 28, 2008, the Department rejected Petitioner's April 10, 2008, submission because this submission contained new factual information which was untimely submitted and the information presented by Petitioner did not rebut, clarify, or correct the information reported in Blue Bird's financial statement.<sup>9</sup>

<sup>7</sup> See the Department's letter to Kejriwal, dated March 20, 2008, extending the due date for interested parties to submit new factual information on the record of this proceeding from March 20, 2008 to April 3, 2008. In its April 3, 2008 submission, Kejriwal states that Petitioner requested a review of Blue Bird and asserts that Blue Bird is an Indian producer of subject merchandise.

<sup>8</sup> Petitioner's submitted information contains the publicly available 2006–2007 financial statement of Navneet, an Indian producer of subject merchandise.

<sup>9</sup> The Department found that Petitioner's submission was filed after the Department's April 3, 2008 deadline for filing factual information. Moreover, it did not meet the regulatory requirements of 19 CFR 351.301(c)(1) because the Navneet financial statement submitted by Petitioner did not rebut, clarify or correct information previously on the record, *i.e.*, the Blue Bird financial statement. Specifically, on page 2 of its April 10, 2008, letter, Petitioner simply states "{c}oncerning the calculation of Kejriwal's selling expense and profit ratios, we hereby submit rebuttal information in the form of publicly available, and fully audited 2006–2007 financial statement of Navneet Publications (India) Ltd.—an Indian producer of subject merchandise." Petitioner has made no statements or arguments as to why Navneet's rather than Blue Bird's selling and profit data should be used by the Department in this review, or why it is relevant to the information placed on the record by Kejriwal on April 13, 2008. Accordingly, the Department rejected Petitioner's April 10, 2008, submission. See the Department's April 28, 2008, letter from Melissa G. Skinner, Director, Office 3, AD/CVD Operations, to AASPS; RE: 2006–2007 Administrative Review of the Antidumping Duty Order of Certain Lined Paper from India; SUBJECT: Removal of untimely filed factual information from the Record.

On May 2, 2008, the Department postponed the preliminary results in this review until no later than September 29, 2008. See *Certain Lined Paper Products from India: Extension of Time Limits for the Preliminary Results of Antidumping Duty Administrative Review*, 73 FR 24219 (May 2, 2008).

On September 12, 2008, Petitioner filed pre-preliminary comments, to which Kejriwal submitted its rebuttal comments on September 17, 2008.

### Scope of the Order

The scope of this order includes certain lined paper products, typically school supplies (for purposes of this scope definition, the actual use of or labeling these products as school supplies or non-school supplies is not a defining characteristic) composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets (there shall be no minimum page requirement for loose leaf filler paper) including but not limited to such products as single- and multi-subject notebooks, composition books, wireless notebooks, loose leaf or glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8¾ inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or "tear-out" size), and are measured as they appear in the product (*i.e.*, stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper). However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points. Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise is within the scope of this order whether or not the lined paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature

calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto.

Specifically excluded from the scope of this order are:

- Unlined copy machine paper;
  - Writing pads with a backing (including but not limited to products commonly known as "tablets," "note pads," "legal pads," and "quadrille pads"), provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole-punched or drilled filler paper;
  - Three-ring or multiple-ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;
  - Index cards;
  - Printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;
  - Newspapers;
  - Pictures and photographs;
  - Desk and wall calendars and organizers (including but not limited to such products generally known as "office planners," "time books," and "appointment books");
  - Telephone logs;
  - Address books;
  - Columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data;
  - Lined business or office forms, including but not limited to: pre-printed business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;
  - Lined continuous computer paper;
  - Boxed or packaged writing stationery (including but not limited to products commonly known as "fine business paper," "parchment paper," and "letterhead"), whether or not containing a lined header or decorative lines;
  - Stenographic pads ("steno pads"), Gregg ruled ("Gregg ruling" consists of a single- or double-margin vertical ruling line down the center of the page. For a six-inch by nine-inch stenographic pad, the ruling would be located approximately three inches from the left of the book), measuring 6 inches by 9 inches;
- Also excluded from the scope of this order are the following trademarked products:
- Fly™ lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a Fly™ pen-top

computer. The product must bear the valid trademark Fly™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

- **Zwipes™:** A notebook or notebook organizer made with a blended polyolefin writing surface as the cover and pocket surfaces of the notebook, suitable for writing using a specially-developed permanent marker and erase system (known as a Zwipes™ pen). This system allows the marker portion to mark the writing surface with a permanent ink. The eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing the ink to be removed. The product must bear the valid trademark Zwipes™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

- **FiveStar® Advance™:** A notebook or notebook organizer bound by a continuous spiral, or helical, wire and with plastic front and rear covers made of a blended polyolefin plastic material joined by 300 denier polyester, coated on the backside with PVC (poly vinyl chloride) coating, and extending the entire length of the spiral or helical wire. The polyolefin plastic covers are of specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). Integral with the stitching that attaches the polyester spine covering, is captured both ends of a 1" wide elastic fabric band. This band is located 2 3/8" from the top of the front plastic cover and provides pen or pencil storage. Both ends of the spiral wire are cut and then bent backwards to overlap with the previous coil but specifically outside the coil diameter but inside the polyester covering. During construction, the polyester covering is sewn to the front and rear covers face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. The flexible polyester material forms a covering over the spiral wire to protect it and provide a comfortable grip on the product. The product must bear the valid trademarks FiveStar® Advance™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

- **FiveStar Flex™:** A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by 300 denier polyester spine cover extending the entire length of the spine and bound by a 3-ring plastic

fixture. The polyolefin plastic covers are of a specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). During construction, the polyester covering is sewn to the front cover face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. During construction, the polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. Each ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically positioned on the outside back cover. The product must bear the valid trademark FiveStar Flex™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

Merchandise subject to this order is typically imported under headings 4820.10.2050, 4810.22.5044, 4811.90.9090, 4820.10.2010, 4820.10.2020 of the Harmonized Tariff Schedule of the United States ("HTSUS"). The HTSUS headings are provided for convenience and customs purposes; however, the written description of the scope of the order is dispositive.

#### Application of Facts Available

Section 776(a) of the Act provides that the Department will apply "facts otherwise available" if, *inter alia*, necessary information is not available on the record or an interested party: (1) Withholds information that has been requested by the Department; (2) fails to provide such information within the deadlines established, or in the form or manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (3) significantly impedes a proceeding; or (4) provides such information, but the information cannot be verified.

As discussed in the "Background" section above, on December 17, 2007, the Department selected Kejriwal and Ria as the mandatory respondents for this review, and on the same date, the Department issued the antidumping questionnaire to Kejriwal and Ria. See the "Respondent Selection Memo." The deadline to respond to the Department's questionnaire was January 23, 2008. On January 23, 2008, the Department received an e-mail from Ria requesting

a five-week extension of the deadline to file its response to the Department's questionnaire issued on December 18, 2007. Because this request for extension was not properly filed and served on the interested parties in accordance with the Department's filing and service regulations, the Department on January 23, 2008, issued a letter to Ria and instructed Ria to properly file its extension request and properly serve it on the interested parties. Despite Ria's improper filing of its extension request, the Department granted a two-week extension until February 6, 2008 for Ria to respond to the Department's questionnaire. However, despite the extension, Ria never submitted any questionnaire responses to the Department, nor did it request any further extension. By failing to respond to the Department's requests, Ria withheld requested information and significantly impeded the proceeding. Therefore, pursuant to sections 776(a)(2)(A) and (C) of the Act, the Department preliminarily finds that the use of total facts available for Ria is appropriate.

According to section 776(b) of the Act, if the Department finds that an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information, the Department may use an inference that is adverse to the interests of that party in selecting from the facts otherwise available. See also *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025–26 (Sept. 13, 2005); and *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794–96 (Aug. 30, 2002). Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See *Statement of Administrative Action accompanying the Uruguay Round Agreements Act*, H.R. Rep. No. 103–316, Vol. 1, at 870 (1994) (SAA), reprinted in 1994 U.S.C.C.A.N. 4040, 4198–99. Furthermore, "affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference." See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27340 (May 19, 1997); see also *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382–83 (Fed. Cir. 2003) (*Nippon*). In this case, despite an improperly filed extension request, the Department granted Ria an opportunity

to refile the extension request and a two-week extension to respond to the Department's questionnaire. Ria never responded, refiled, or made additional request for a further extension. We preliminarily find that Ria did not act to the best of its ability in this proceeding, within the meaning of section 776(b) of the Act, because it could have responded to the Department's requests for information, but failed to do so. Therefore, an adverse inference is warranted in selecting from the facts otherwise available with respect to Ria. See *Nippon*, 337 F.3d at 1382–83.

Section 776(b) of the Act provides that the Department may use as AFA information derived from: (1) The petition; (2) the final determination in the investigation; (3) any previous review; or (4) any other information placed on the record.

The Department's practice, when selecting an AFA rate from among the possible sources of information, has been to ensure that the margin is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner." See, e.g., *Certain Steel Concrete Reinforcing Bars from Turkey; Final Results and Rescission of Antidumping Duty Administrative Review in Part*, 71 FR 65082, 65084 (Nov. 7, 2006).

In order to ensure that the margin is sufficiently adverse so as to induce cooperation, we have preliminarily assigned a rate of 23.17 percent, which is the highest rate on the record of the proceeding which can be corroborated. *Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India ("India Lined Paper Investigation Final")*, 71 FR 45012 (August 8, 2006). As stated in the *India Lined Paper Investigation Final*, this rate was assigned as AFA to two companies, which failed to cooperate to the best of their ability, and is based on Kejriwal's data submitted in the investigation. *Id.* The Department finds that this rate is sufficiently high as to effectuate the purpose of the facts available rule (i.e., we find that this rate is high enough to encourage participation in future segments of this proceeding in accordance with section 776(b) of the Act).

#### Corroboration of Information

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as facts available. 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 19 CFR 351.308(c) and (d); see also the 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 the SAA at 870. 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. *Id.* To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.

To corroborate secondary information, to the extent practicable, the Department normally examines the reliability and relevance of the information to be used. Unlike other types of information such as input costs or selling expenses, however, there are no independent sources for calculated dumping margins. The only source for margins is administrative determinations. Thus, with respect to an administrative review, if the Department chooses as facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. See *Carbazole Violet Pigment 23 from India: Preliminary Results of Antidumping Duty Administrative Review*, 73 FR 52012 (September 8, 2008) ("*Carbazole Violet Pigment 23 from India*"). See also *Antifriction Bearings and Parts Thereof from France, et al.: Preliminary Results of Antidumping Duty Administrative Reviews, Partial Rescission of Administrative Reviews, Notice of Intent to Rescind Administrative Reviews, and Notice of Intent to Revoke Order in Part*, 69 FR 5949, 5953 (February 9, 2004), unchanged in *Antifriction Bearings and Parts Thereof from France, et al.: Final Results of Antidumping Duty Administrative Reviews, Rescission of Administrative Reviews in Part, and Determination To Revoke Order in Part*, 69 FR 55574, 55576–77 (September 15, 2004).

With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances

indicate that the selected margin is not appropriate as AFA, 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, 6814 (Feb. 22, 1996), the Department disregarded the highest margin in that case as adverse best information available (the predecessor to facts available) because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin. Similarly, the Department does not apply a margin that has been discredited or judicially invalidated. See *D & L Supply Co. v. United States*, 113 F.3d 1220, 1221 (CAFC 1997).

None of these unusual circumstances is present here. The Department considers the dumping margin of 23.17 percent relevant for use as AFA for this review because this margin is based on information from the investigation and is within the range of transaction-specific margins calculated for a mandatory respondent in this review.<sup>10</sup> Moreover, there is no information on the record of this review that demonstrates that 23.17 percent is not an appropriate AFA rate for Ria. The Department finds that use of the rate of 23.17 percent as an AFA rate is sufficiently high to ensure that Ria does not benefit from failing to cooperate in our review by refusing to respond to our questionnaire. See *Certain Cut-to-Length Carbon-Quality Steel Plate Products from the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Rescission of Administrative Review in Part*, 73 FR 15132, 15133 (March 21, 2008). See also *Carbazole Violet Pigment 23 from India*.

As this rate is both reliable and relevant, the Department determines that it has probative value. Accordingly, the Department has determined that the selected rate of 23.17 percent, the highest rate from any segment of this proceeding that can be corroborated, is in accordance with section 776(c)'s requirement that secondary information be corroborated (i.e., that it have probative value).

<sup>10</sup> The dumping margin of 23.17 percent is the AFA rate for Navneet in the original investigation, which was based on a calculated rate for Kejriwal. See the Memorandum to File through James Terpstra, Program Manager, from Cindy Lai Robinson, Case Analyst, entitled "Analysis Memorandum for Kejriwal Paper, Re: Preliminary Results of Antidumping Duty Administrative Review of Certain Lined Paper Products from India," dated September 29, 2008.

## Comparisons to Normal Value

To determine whether sales of certain lined paper products by Kejriwal to the United States were made at less than NV, we compared export price ("EP") to the NV, as described in the "Export Price" and "Normal Value" sections of this notice.

Pursuant to section 777A(d)(2) of the Act, we compared the EPs of individual U.S. transactions to the weighted-average NV of the foreign like product where there were sales made in the ordinary course of trade, as discussed in the "Cost of Production Analysis" section below.

## Export Price

For all U.S. sales made by Kejriwal, we used EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and constructed export price methodology was not otherwise warranted based on the facts of record.

We based EP on packed prices to the first unaffiliated purchaser in the United States. In accordance with section 772(c)(2)(A) of the Act, we made deductions for movement expenses, where appropriate, foreign inland freight from plant/warehouse to the port of exportation, foreign brokerage and handling, U.S. brokerage and handling, international freight, U.S. marine insurance, U.S. inland freight from port to warehouse, U.S. inland freight from warehouse to customers, U.S. duty and certain bank charges. In addition, we deducted billing adjustments from EP, where appropriate.

## Normal Value

### A. Home Market Viability and Comparison Market Selection

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared Kejriwal's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act.

Section 773(a)(1)(C)(i) of the Act applies to the Department's determination of NV if the foreign like product is not sold (or offered for sale) for consumption in the exporting country. When sales in the home market are not viable, section 773(a)(1)(B)(ii) of the Act provides that sales to a

particular third country market may be utilized if: (1) The prices in such market are representative; (2) the aggregate quantity of the foreign like product sold by the producer or exporter in the third country market is five percent or more of the aggregate quantity of the subject merchandise sold in or to the United States; and (3) the Department does not determine that a particular market situation in the third country market prevents a proper comparison with the U.S. price.

Kejriwal reported that it made no sales to the home market and no sales to a third country. *See* Kejriwal's Section A Response, dated February 6, 2008, at A-2 and A-3; *see also* Kejriwal's supplemental questionnaire response at 15, dated April 21, 2008. Therefore, for Kejriwal, we used constructed value ("CV") as the basis for calculating NV, in accordance with section 773(a)(4) of the Act.

### B. Level of Trade

Kejriwal reported sales only to unaffiliated distributors in the U.S. market, and no sales to either the home or third country markets. In the U.S. market, it reported only one level of trade. The selling functions, customer category, and the level of selling expenses for each type of sale was consistent for all distributors in the United States. A level-of-trade adjustment is not practicable in this review, as we do not have the information necessary with respect to the level of trade at which CV selling expenses and profit were determined.

### C. Calculation of Normal Value Based on Constructed Value

In accordance with section 773(a)(4) of the Act, we based Kejriwal's NV on CV. In accordance with section 773(e) of the Act, we calculated CV based on the sum of Kejriwal's cost of materials and fabrication for the foreign like product, plus amounts for selling, general, and administrative expenses ("SG&A"), profit, and U.S. packing costs. We calculated the cost of materials and fabrication based on the CV information provided by Kejriwal in its section D response. We recalculated Kejriwal's financial expense ratio to include newsprint SG&A reclassified as cost of newsprint revenue in the cost of goods sold denominator. Because Kejriwal does not have Indian sales of the foreign like product or third country sales, the Department does not have comparison market selling expenses or profit to use in its calculations, as directed by section 773(e) of the Act. As an alternative, the Department has used as selling expenses and profit for Kejriwal, data from the

March 31, 2007 financial statements of Blue Bird. Blue Bird sells merchandise within the same general category of products as the foreign like product in the Indian market. *See* Memorandum from Robert Greger to Neal Halper, Director, Office of Accounting, Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results—Kejriwal Paper Limited, dated September 29, 2008 ("COP/CV Memo").

## Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

## Non-Selected Rate

The statute and the Department's regulations do not directly address the establishment of rates to be applied to companies not selected for examination where the Department limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. However, the Department normally determines the rates for non-selected companies in reviews in a manner that is consistent with section 735(c)(5) of the Act. Section 735(c)(5)(A) of the Act instructs that the Department is not to calculate an all-others rate using any zero or *de minimis* margins or any margins based on total facts available. Section 735(c)(5)(B) of the Act also provides that, where all margins are zero, *de minimis*, or based on total facts available, the Department may use "any reasonable method" for assigning the rate to non-selected respondents. One method that section 735(c)(5)(B) of the Act contemplates as a possible method is "averaging the estimated weighted average dumping margins determined for the exporters and producers individually investigated."

In this review, the margin calculated for Kejriwal is *de minimis* and the margin applied to Ria is based on AFA. Thus, in this segment of the proceeding, we have assigned only *de minimis* and rates based entirely on AFA. Based on the facts of this case, the Department determines that a reasonable method for determining the margin for the non-selected companies in this review is the average of the margins, other than those which are zero, *de minimis*, or based on total facts available, that we found for the most recent period in which there were such margins. In this case, the most recently completed segment is the original investigation. In the investigation, only one rate that we calculated was not zero, *de minimis*, or

based on total facts available: the margin we calculated for Kejriwal was 3.91 percent (*see India Lined Paper Investigation Final*). This margin was also assigned as the all-others rate. While the statute contemplates that the Department may use an average of the zero, *de minimis*, or facts-available rates determined in an investigation where such rates are the only rates determined, in this review, the Department has additional information that would not be available in an investigation involving only *de minimis*/zero and AFA rates. Specifically, in addition to the option of using an average of the rates in this review, the Department can use the above *de minimis* rate calculated in the most recently completed segment of the proceeding. Consistent with the Department's decision in *AFBs*,<sup>11</sup> we have determined that it is appropriate in this review to use the calculated above *de minimis* rate from the investigation, as there is no reason to find that it is not reasonably reflective of potential dumping margins for the non-selected companies.

We note that in the investigation, Navneet, a non-selected company in this review, was assigned a company-specific rate of 23.17 percent based on AFA for its failure to cooperate to the best of its ability. In this review, however, there is no basis for finding Navneet uncooperative. As stated above, Navneet and the other 17 companies are non-selected companies under this review. The Department determines to use, as the non-selected rate, a calculated rate which does not rely on zero, *de minimis*, or facts-available margins from the investigation. Therefore, for purposes of these preliminary results, the 18 remaining non-selected companies subject to this review will receive the rate of 3.91 percent calculated during the investigation.

## Disclosure

We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 19 CFR 351.224(b).

<sup>11</sup> See *Ball Bearings and Parts Thereof From France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part*, 73 FR 52823 (September 11, 2008), and the accompanying Issues and Decision Memorandum at Comment 6 ("AFBs"). See also *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Notice of Preliminary Results of the New Shipper Review and Fourth Antidumping Duty Administrative Review and Partial Rescission of the Fourth Administrative Review*, 73 FR 52017 (September 8, 2008).

## Preliminary Results of the Review

We preliminarily determine that weighted-average dumping margins exist for the respondents for the period April 17, 2006, through August 31, 2007, as follows:

Manufacturer/exporter	Weighted average margin (percent)
Kejriwal Paper Limited .....	0.44 ( <i>de minimis</i> )
Ria ImpEx Pvt. Ltd. ....	23.17

## Review-Specific Average Rate Applicable to the Non-Selected Companies Subject to This Review:<sup>12</sup>

Blue Bird India Ltd. ....	3.91
Creative Divya .....	3.91
Exel India Pvt. Ltd. ....	3.91
FFI International .....	3.91
Global Art India Inc. ....	3.91
Kejriwal Exports .....	3.91
M/S Super ImpEx .....	3.91
Magic International .....	3.91
Marigold ExIm Pvt. Ltd. ....	3.91
Marisa International .....	3.91
Navneet Publications (India) Ltd. ....	3.91
Pioneer Stationery Pvt. Ltd. ....	3.91
Rajvansh International .....	3.91
Riddhi Enterprises .....	3.91
SAB International .....	3.91
TKS Overseas .....	3.91
Unlimited Accessories Worldwide ...	3.91
V. Joshi Co. ....	3.91

## Disclosure and Public Hearing

The Department will disclose to parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice. See 19 CFR 351.224(b). Pursuant to 19 CFR 351.309, interested parties may submit cases briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication of this notice. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. See 19 CFR 351.309(c)(2).

Pursuant to 19 CFR 351.310(c), 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 1117, within 30 days of the date of publication of this notice. Requests should contain:

<sup>12</sup> This rate is based on the weighted average of the margins calculated during the investigation (which is also the rate calculated for Kejriwal in the investigation). See the "Non-Selected Rate" section above.

(1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. *Id.* Issues raised in the hearing will be limited to those raised in the respective case briefs. The Department will issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

## Assessment Rates

Upon completion of the administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212. The Department will issue appropriate appraisement instructions for the companies subject to this review directly to CBP 15 days after the date of publication of the final results of this review.

For Kejriwal, because it reported the entered value for some of its U.S. sales, we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the sales for which entered value was reported. For Kejriwal's U.S. sales reported without entered values, we will calculate importer-specific per-unit duty assessment rates by aggregating the total amount of antidumping duties calculated for the examined sales and dividing this amount by the total quantity of those sales. To determine whether the duty assessment rates are *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we will calculate importer-specific *ad valorem* ratios based on the estimated entered value.

For all other companies<sup>13</sup> subject to this review which were not selected for individual examination, we will calculate an assessment rate based on the weighted average of the cash deposit rates calculated for the companies as described in the "Non-Selected Rate" section above.

We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis*. Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for

<sup>13</sup> As stated above, Ria will receive an AFA rate of 23.17 percent.



which the assessment rate is *de minimis*. See 19 CFR 351.106(c)(1). The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

The Department clarified its "automatic assessment" regulation on May 6, 2003. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*). This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (e.g., a reseller, trading company, or exporter) 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 intermediary involved in the transaction. See *Assessment Policy Notice* for a full discussion of this clarification.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for each specific company listed above will be that established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 3.91 percent, the all-others rate made effective by the investigation. See *Lined Paper Order*, 70 FR at 5148. These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

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

Dated: September 29, 2008.

**David M. Spooner**,  
Assistant Secretary for Import  
Administration.

[FR Doc. E8-23704 Filed 10-6-08; 8:45 am]

BILLING CODE 3510-DS-P

#### DEPARTMENT OF COMMERCE

##### Minority Business Development Agency

[Docket No.: 0809301287-81291-01]

##### Solicitation of Applications for the Minority Business Enterprise Center (MBEC) Program

**AGENCY:** Minority Business  
Development Agency, Commerce.

**ACTION:** Notice.

**SUMMARY:** In accordance with 15 U.S.C. Section 1512 and Executive Order 11625, the Minority Business Development Agency (MBDA) is soliciting competitive applications from organizations to operate a Minority Business Enterprise Center (MBEC) in Houston, TX. The MBEC operates through the use of business consultants and provides a range of business consulting and technical assistance services directly to eligible minority-owned businesses in the Houston-Sugar Land-Baytown, Texas Metropolitan Statistical Area (MSA). Responsibility for ensuring that applications in response to this competitive solicitation are complete and received by MBDA on time is the sole responsibility of the applicant. Applications submitted must be to operate a MBEC and to provide business consultation services to eligible clients. Applications that do not meet these requirements will be rejected. This is not a grant program to help start or to further an individual business.

**DATES:** The closing date for receipt of applications is November 7, 2008 at 5 p.m. Eastern Standard Time (EST). Completed applications must be received by MBDA at the address below for paper submissions or at <http://www.Grants.gov> for electronic submissions. The due date and time is the same for electronic submissions as it is for paper submissions. The date that applications will be deemed to have been submitted electronically shall be the date and time received at Grants.gov. Applicants should save and print the proof of submission they receive from Grants.gov. Applications received after the closing date and time will not be considered. Anticipated time for processing is forty-five (45) days from the closing date for receipt of applications. MBDA anticipates that one award under this notice will be made with a start date of January 1, 2009.

**Pre-Application Conference:** In connection with this solicitation, a pre-application teleconference will be held on October 21, 2008 at 1 p.m. Eastern Daylight Time (EDT). Participants must register at least 24 hours in advance of the teleconference and may participate in person or by telephone. Please visit the MBDA Internet Portal at <http://www.mbda.gov> (MBDA Portal) or contact an MBDA representative listed below for registration instructions.

**ADDRESSES:** (1a) *Paper Submission—If Mailed:* If the application is sent by postal mail or overnight delivery service by the applicant or its representative, one (1) signed original plus two (2) copies of the application must be submitted. Applicants are encouraged to also submit an electronic copy of the proposal, budget and budget narrative on a CD-ROM to facilitate the processing of applications. Complete application packages must be mailed to: Office of Business Development—MBEC Program, Office of Executive Secretariat, HCHB, Room 5063, Minority Business Development Agency, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230.

Applicants are advised that MBDA's receipt of mail sent via the United States Postal Service may be substantially delayed or suspended in delivery due to security measures. Applicants may therefore wish to use a guaranteed overnight delivery service. Department of Commerce delivery policies for overnight delivery services require all packages to be sent to the address above.

(1b) *Paper Submission—If Hand-Delivered:* If the application is hand-delivered by the applicant or by its representative, one (1) signed original plus two (2) copies of the application