

*Number of Respondents:* 35,700.  
*Frequency of Responses:* Reporting;  
 On occasion.  
*Total Burden Hours:* 2,471.

**Ruth Brown,**

*Departmental Information Collection  
 Clearance Officer.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-894]

#### **Certain Tissue Paper Products From the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order and Extension of Final Determination**

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

#### **Preliminary Determination**

We preliminarily determine that certain tissue paper products ("tissue paper") produced by Vietnam Quijiang Paper Co., Ltd. ("Quijiang") are circumventing the antidumping duty order on tissue paper from the People's Republic of China ("PRC"), as provided in section 781(b) of the Tariff Act of 1930, as amended ("the Act"). See *Notice of Amended Final Determination of Sales at Less than Fair Value and Antidumping Duty Order: Certain Tissue Paper Products from the People's Republic of China*, 70 FR 16223 (March 30, 2005) ("Order").

**DATES:** *Effective Date:* April 22, 2008.

**FOR FURTHER INFORMATION CONTACT:** Julia Hancock, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230; telephone: (202) 482-1394.

#### **SUPPLEMENTARY INFORMATION:**

#### **Background**

On July 19, 2006, the Seaman Paper Company of Massachusetts, Inc. ("Petitioner") requested that the Department of Commerce ("the Department") initiate a circumvention inquiry pursuant to section 781(b) of the Act, and 19 CFR 351.225(h), to determine whether imports of tissue paper from Vietnam made from PRC-origin jumbo rolls are circumventing the antidumping duty order on tissue paper from the PRC. See Petitioner's Request for a Circumvention Inquiry, (July 19, 2006) ("Circumvention Petition");

*Order.* Petitioner alleged that sending PRC-origin jumbo rolls of tissue paper to Vietnam for completion or assembly into tissue paper products covered by the *Order* constitutes circumvention pursuant to section 781(b) of the Act.

On July 21, 2006, Petitioner amended the Circumvention Petition to include certain business proprietary information. On August 11, 2006, Quijiang submitted comments regarding Petitioner's July 21, 2006, request for an anti-circumvention inquiry. On August 14, 2006, the Department requested that the Petitioner submit documentation referenced, but not included, in its July 21, 2006, request. On August 18, 2006, Petitioner submitted a response to the Department's August 14, 2006, request. On August 21, 2006, Petitioner submitted comments on Quijiang's August 11, 2006, submission.

On September 5, 2006, the Department initiated a circumvention inquiry on certain imports of tissue paper from Vietnam. See *Certain Tissue Paper Products from the People's Republic of China: Initiation of Circumvention Inquiry*, 71 FR 53662 (September 12, 2006) ("Initiation"). In the *Initiation* notice, the Department stated that it would focus its analysis on the significance of the production process in Vietnam by Quijiang, the company the Petitioner identified in its circumvention request.

However, in the *Initiation* notice, the Department also stated that Quijiang had admitted on the record of the first administrative review of the *Order* that it received jumbo rolls of tissue paper produced by its PRC parent company, Guilin Qifeng Paper Co., Ltd. ("Guilin Qifeng"). Guilin Qifeng is the sole owner of Quijiang. According to Quijiang, Guilin Qifeng, which is a tissue paper processor and exporter located in Guangxi, PRC, established Quijiang in June 2004. Additionally, Quijiang stated that Guilin Qifeng was the sole supplier of the PRC-origin jumbo rolls, which Quijiang converted to cut-to-length tissue paper that was exported to the United States. See Quijiang's First Questionnaire Response, (December 11, 2006) at 4-8. Accordingly, for purposes of this circumvention inquiry, the Department has focused its analysis on whether PRC-origin jumbo rolls supplied by Guilin Qifeng that were converted to cut-to-length tissue paper products by Quijiang are circumventing the *Order*, as provided in section 781(b) of the Act.

#### **Questionnaires**

On September 27, 2006, Petitioner submitted comments concerning the initial questionnaire to be issued to

Quijiang. On October 6, 2006, Cleo Inc. ("Cleo"), a U.S. importer, submitted rebuttal comments to Petitioner's September 27, 2006, submission. On October 26, 2006, Petitioner submitted surrebuttal comments to Cleo's October 6, 2006, submission.

Between November 2, 2006, and December 3, 2007, the Department issued six questionnaires to Quijiang soliciting information regarding Quijiang's tissue paper production and exports to the United States to which Quijiang responded. Between January 8, 2007, and April 3, 2008, Petitioner and Cleo submitted comments on Quijiang's questionnaire responses and whether the Department should suspend liquidation and collect cash deposits on all entries of tissue paper from Quijiang.

#### **Surrogate Country Comments**

In this case, both the country that produced the jumbo rolls and the country that produced the tissue paper products from the jumbo rolls are considered non-market economy ("NME") countries.<sup>1</sup> Therefore, because the production of jumbo rolls and the cut-to-length tissue paper are performed in NME countries, we used surrogate values to determine whether the value of processing performed in Vietnam represents a small portion of the value of the merchandise sold in the United States. Accordingly, pursuant to section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of factors of production ("FOPs") in one or more market-economy countries that are at a level of economic development comparable to that of the NME country and are significant producers of comparable merchandise.

On November 5, 2007, the Department determined that India, Indonesia, Sri Lanka, the Philippines, and Egypt are countries comparable to the PRC and also determined that Bangladesh, Pakistan, India, Sri Lanka, and Indonesia are countries comparable to

<sup>1</sup> In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. See *Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 30758, 30760 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 60632 (October 25, 2007); *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Final Results of the Second Administrative*, 72 FR 13242 (March 21, 2007) ("FFF2 Final Results"). No party has challenged the designation of the PRC or Vietnam as an NME country in this investigation. Therefore, we continue to treat the PRC and Vietnam as NME countries for purposes of the preliminary determination of this circumvention inquiry.

Vietnam in terms of economic development. *See* Memorandum from Ron Lorentzen, Director, Office of Policy, to Alex Villanueva, Program Manager, China/NME Group, Office 9: Circumvention Inquiry of the Antidumping Duty Order of Certain Tissue Paper Products from the People's Republic of China (PRC): Request for a List of Surrogate Countries, (November 5, 2007) ("Surrogate Country List").

On November 8, 2007, the Department requested comments on the selection of a surrogate country from the interested parties in this circumvention inquiry. On November 29, 2007, Petitioner submitted surrogate country comments requesting that India be selected as the appropriate surrogate country for valuing factors of production for both the PRC and Vietnam. No other interested party commented on the selection of a surrogate country. For a detailed discussion of the selection of the surrogate country, *see* "Surrogate Country" section below.

#### *Surrogate Value Comments*

On December 20, 2008, Petitioner submitted surrogate factor valuation comments. No other interested party submitted surrogate factor valuation comments. For a detailed discussion of the selection of the surrogate values, *see* "Calculation of Value-Added" section below.

#### *Verification*

On January 10, 2008, the Department issued the verification outline to Guilin Qifeng and Quijiang notifying them that the Department would verify Guilin Qifeng from February 19 to February 22, 2008, and would verify Quijiang from February 25 to February 27, 2008.

On February 14, 2008, Quijiang submitted a letter requesting that the Department postpone the scheduled verification by one month because neither Quijiang nor Guilin Qifeng would be prepared when verification was scheduled to commence. On February 15, 2008, Petitioner submitted a letter opposing Quijiang's request to delay the scheduled verification. On February 15, 2008, the Department notified Quijiang and Petitioner that it was not going to conduct the verification scheduled for February 19, 2008.

#### *Extension of Determination*

On June 29, 2007, August 14, 2007, and January 4, 2008, the Department extended the determination deadline of this circumvention inquiry. The preliminary determination of this circumvention inquiry is currently due April 14, 2008.

#### **Scope of the Antidumping Duty Order**

The tissue paper products subject to this order are cut-to-length sheets of tissue paper having a basis weight not exceeding 29 grams per square meter. Tissue paper products subject to this order may or may not be bleached, dye-colored, surface-colored, glazed, surface decorated or printed, sequined, crinkled, embossed, and/or die cut. The tissue paper subject to this order is in the form of cut-to-length sheets of tissue paper with a width equal to or greater than one-half (0.5) inch. Subject tissue paper may be flat or folded, and may be packaged by banding or wrapping with paper or film, by placing in plastic or film bags, and/or by placing in boxes for distribution and use by the ultimate consumer. Packages of tissue paper subject to this order may consist solely of tissue paper of one color and/or style, or may contain multiple colors and/or styles.

The merchandise subject to this order does not have specific classification numbers assigned to them under the Harmonized Tariff Schedule of the United States ("HTSUS"). Subject merchandise may be under one or more of several different subheadings, including: 4802.30; 4802.54; 4802.61; 4802.62; 4802.69; 4804.31.1000; 4804.31.2000; 4804.31.4020; 4804.31.4040; 4804.31.6000; 4804.39; 4805.91.1090; 4805.91.5000; 4805.91.7000; 4806.40; 4808.30; 4808.90; 4811.90; 4823.90; 4820.50.00; 4802.90.00; 4805.91.90; 9505.90.40. The tariff classifications are provided for convenience and customs purposes; however, the written description of the scope of this order is dispositive.<sup>2</sup>

Excluded from the scope of this order are the following tissue paper products: (1) Tissue paper products that are coated in wax, paraffin, or polymers, of a kind used in floral and food service applications; (2) tissue paper products that have been perforated, embossed, or die-cut to the shape of a toilet seat, *i.e.*, disposable sanitary covers for toilet seats; (3) toilet or facial tissue stock, towel or napkin stock, paper of a kind used for household or sanitary purposes, cellulose wadding, and webs of cellulose fibers (HTSUS 4803.00.20.00 and 4803.00.40.00).

<sup>2</sup> On January 30, 2007, at the direction of U.S. Customs and Border Protection ("CBP"), the Department added the following HTSUS classifications to the AD/CVD module for tissue paper: 4802.54.3100, 4802.54.6100, and 4823.90.6700. However, we note that the six-digit classifications for these numbers were already listed in the scope.

#### **Scope of the Circumvention Inquiry**

The products covered by this inquiry are jumbo rolls of tissue paper that are exported from the PRC to Vietnam where they are converted, possibly dyed and/or printed, into tissue paper products, as described above in the "Scope of the Antidumping Duty Order" section. This inquiry only covers such products that are exported to the United States by Quijiang.

#### **Statutory Provisions Regarding Circumvention**

Section 781(b) of the Act provides that the Department may find circumvention of an antidumping duty order when merchandise of the same class or kind subject to the order is completed or assembled in a foreign country other than the country to which the order applies. In conducting circumvention inquiries under section 781(b) of the Act, the Department relies upon the following criteria: (A) Merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is subject to an antidumping duty order; (B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which is subject to the order or produced in the foreign country that is subject to the order; (C) the process of assembly or completion in the foreign country referred to in (B) is minor or insignificant; and (D) the value of the merchandise produced in the foreign country to which the antidumping duty order applies is a significant portion of the total value of the merchandise exported to the United States.

The Department's questionnaires issued to Quijiang and its PRC parent company, Guilin Qifeng, were designed to elicit information for purposes of conducting both qualitative and quantitative analyses in accordance with the criteria enumerated in section 781(b) of the Act, as outlined above. This approach is consistent with our analyses in prior circumvention inquiries. *See Circumvention and Scope Inquiries on the Antidumping Duty Order on Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Partial Affirmative Final Determination of Circumvention of the Antidumping Duty Order, Partial Final Termination of Circumvention Inquiry and Final Rescission of Scope Inquiry*, 71 FR 38608 (July 7, 2006) ("FFF Circumvention Final"); *Anti-Circumvention Inquiry of the Antidumping and Countervailing Duty*

*Orders on Certain Pasta from Italy: Affirmative Final Determinations of Circumvention of Antidumping and Countervailing Duty Orders*, 68 FR 54888 (September 19, 2003) (“*Pasta Circumvention Final*”); *Hot-Rolled Lead and Bismuth Carbon Steel Products from Germany and the United Kingdom; Negative Final Determinations of Circumvention of Antidumping and Countervailing Duty Orders*, 64 FR 40336 (July 26, 1999). To ascertain the value of the completed merchandise exported to the United States we requested PRC production data of jumbo rolls produced by Guilin Qifeng and Vietnam production data of the processing and packaging operations performed by Quijiang.

### Statutory Analysis

#### (A) *Whether Merchandise Sold in the United States Is of the Same Class or Kind as Other Merchandise That Is Subject to the Order*

The *Order* covers cut-to-length sheets of tissue paper equal to or greater than 0.5 inches in width, with a *basis* weight not exceeding 29 grams per square meter and other specified characteristics of the scope. The merchandise subject to this inquiry is tissue paper products exported to the United States by Quijiang produced from PRC-origin jumbo rolls. The information provided by Quijiang in its questionnaire responses indicates that the tissue paper products produced from PRC-origin jumbo rolls it exported to the United States meet the written description of the products subject to the *Order*. See Quijiang’s First Questionnaire Response, (December 11, 2006) at Appendix 7. Quijiang submitted a product list showing that all the tissue paper products it produced and exported to the United States were below the basis weight of 29 grams per square meter, which is the weight that merchandise subject to the *Order* is not to exceed. See Quijiang’s Second Questionnaire Response, (April 3, 2007) at Exhibit S1–2. A review of the product list also shows that Quijiang’s tissue paper products meet other criteria identified in the *Order* such as dyed, printed, etc. Finally, we note that Quijiang has not argued that its exports of tissue paper products to the United States are not of the same class or kind of merchandise as that subject to the *Order*. Accordingly, we find that the merchandise subject to this inquiry is the same class or kind of merchandise as that subject to the *Order*.

#### (B) *Whether Merchandise Sold in the United States Is Completed or Assembled in Another Foreign Country From Merchandise Which Is Subject to the Order or Produced in the Foreign Country That Is Subject to the Order*

In this proceeding, the merchandise exported to the United States is tissue paper products processed in Vietnam from PRC-origin jumbo rolls of tissue paper. Quijiang has reported that it exported tissue paper that was processed in Vietnam using PRC-origin jumbo rolls of tissue paper as the input. See Quijiang’s First Questionnaire Response, at 6. Specifically, Quijiang stated that it imported PRC-origin jumbo rolls of tissue paper produced by its parent company, Guilin Qifeng, which were then converted, possibly dyed and/or printed, into cut-to-length tissue paper. See *id.* at 6 and Appendix 1. Additionally, Quijiang reported that it exported tissue paper that was processed in Vietnam using PRC-origin jumbo rolls between July 2004 and July 2006. See Quijiang’s Sixth Questionnaire Response, (January 4, 2008) at 22. Accordingly, we find that the merchandise subject to this circumvention inquiry was completed in Vietnam from PRC-origin jumbo rolls that were produced in the country to which this *Order* applies.

#### (C) *Whether the Process of Assembly or Completion in the Foreign Country Is Minor or Insignificant*

Section 781(b)(2) of the Act provides the criteria for determining whether the process of assembly or completion is minor or insignificant. These criteria are:

- (a) The level of investment in the foreign country;
- (b) the level of research and development in the foreign country;
- (c) the nature of the production process in the foreign country;
- (d) the extent of the production facilities in the foreign country; and
- (e) whether the value of the processing performed in the foreign country represents a small proportion of the value of the merchandise imported into the United States.

The Statement of Administrative Action (“SAA”) accompanying the Uruguay Round Agreements Act, H. Doc. No. 103–316, at 893 (1994), provides some guidance with respect to these criteria. It explains that no single factor listed in section 781(b)(2) of the Act will be controlling. Accordingly, it is the Department’s practice to evaluate each of the factors as they exist in the United States or foreign country depending on the particular

circumvention scenario. Therefore, the importance of any one of the factors listed under section 781(b)(2) of the Act can vary from case to case depending on the particular circumstances unique to each circumvention inquiry.

In this circumvention inquiry, we based our analysis on both qualitative and quantitative factors in determining whether the process of converting the jumbo rolls in Vietnam was minor or insignificant, in accordance with the criteria of section 781(b)(2) of the Act. This approach is consistent with our analysis in prior circumvention inquiries. See *Anti-Circumvention Inquiry of the Antidumping and Countervailing Duty Orders on Certain Pasta From Italy: Affirmative Preliminary Determinations of Circumvention of Antidumping and Countervailing Duty Orders*, 68 FR 46571 (August 6, 2003) (“*Pasta Circumvention Prelim*”) (unchanged in *Pasta Circumvention Final*, 68 FR 54888).

#### (a) The Level of Investment in Vietnam

For purposes of this circumvention inquiry, we analyzed the level of investment in Quijiang that is associated with converting the PRC-origin jumbo rolls into finished cut-to-length tissue paper. Specifically, we reviewed the level of investment in Quijiang for the conversion process by Quijiang’s parent company, Guilin Qifeng, and Quijiang’s investment on its own behalf.

Quijiang reported that its operations in Vietnam for converting jumbo rolls into cut-to-length tissue paper are comprised of equipment sourced in three ways: (1) Assets identified as “purchase from China,” which consist of equipment that Quijiang purchased from its parent company, Guilin Qifeng; (2) assets identified as “Guilin Qifeng Investment,” which are assets that Guilin Qifeng physically moved to Quijiang but nevertheless retained ownership; and (3) assets identified as “Vietnam domestic purchase,” which are assets or equipment that Quijiang purchased in Vietnam. See Quijiang’s Second Questionnaire Response, at 7. Additionally, Quijiang identified the types of equipment and where that equipment was used in the production of cut-to-length tissue paper products, (*i.e.*, Quijiang identified what type of equipment, such as cutting machines, was used in the processing workshop where the jumbo rolls were converted). *Id.*, at Exhibit S2–5. Moreover, Quijiang stated that for the assets that were sourced in these three ways, the first method, which is identified as “purchases from China,” is Guilin Qifeng’s investment and that the second

and third method, which are identified as “purchases from China” and “Vietnamese domestic purchases,” is Quijiang’s investment. *Id.*

With respect to Guilin Qifeng’s investment in Quijiang for the conversion of the jumbo rolls, Quijiang stated that these assets were in use by Guilin Qifeng immediately prior to their physical transfer to Quijiang. *See* Quijiang’s Second Questionnaire Response, at 7. Specifically, Quijiang stated that these assets were transferred to Quijiang from Guilin Qifeng in the following manner: (1) Disassembling, packing, and loading the assets or equipment onto a truck; (2) transporting the assets or equipment across the border from China to Quijiang in Vietnam; and (3) unloading, assembling, and testing the assets or equipment. *See* Quijiang’s Sixth Questionnaire Response, at 25 and Appendix S6–29. The facts show that the vast majority of the equipment or assets that were transferred from Guilin Qifeng to Quijiang to be used in converting the PRC-origin jumbo rolls to cut-to-length tissue paper were not new assets as nearly all of this equipment had been in use by Guilin Qifeng prior to their transfer. Therefore, we find that Guilin Qifeng’s investment in Quijiang that was used for converting the PRC-origin jumbo rolls to cut-to-length tissue paper was not new investment because almost all of the assets that consist of this investment were in prior use by Guilin Qifeng. However, we will use Guilin Qifeng’s investment in Quijiang for the conversion process in determining whether Quijiang’s own investment was minor or insignificant because the assets or equipment representing Guilin Qifeng’s investment were used in the conversion process and there were some expenses incurred for moving the equipment and getting it situated in Vietnam.

We calculated the total level of investment in Quijiang for converting PRC-origin jumbo rolls into cut-length tissue paper and find that the Guilin Qifeng’s investment (*i.e.*, assets transferred from Guilin Qifeng) is significant as compared to the level of investment, (*i.e.*, purchases from China and Vietnamese domestic purchases), provided by Quijiang. *See* Memorandum to the File from Julia Hancock, Senior Case Analyst, through Alex Villanueva, Program Manager, AD/CVD Operations, Office 9: Circumvention Inquiry on Certain Tissue Paper Products from the People’s Republic of China: Proprietary Analysis of Certain Statutory Factors for Vietnam Quijiang for the Preliminary Determination, (April 14, 2008)

(“Analysis Memorandum”).

Specifically, Guilin Qifeng’s overall investment in the conversion of the PRC-origin jumbo rolls accounts for approximately 75 percent of total investment whereas Quijiang’s total investment accounts for approximately only 25 percent of the total investment for equipment used in converting PRC-origin jumbo rolls.<sup>3</sup> *Id.* Accordingly, we find that the level of investment by Quijiang for equipment used in converting the PRC-origin jumbo rolls is minor or insignificant compared to the level of investment provided by Guilin Qifeng.

#### (b) The Level of Research and Development (“R&D”) in Vietnam

We find that the record evidence for this circumvention inquiry demonstrates that Quijiang has not undertaken a significant level of R&D in order to process tissue paper products. In describing the level of R&D in the tissue paper industry in Vietnam, Quijiang reported that the tissue paper industry is a mature, traditional and labor intensive industry and that there is not much research and development involved in this industry. *See* Quijiang’s First Questionnaire Response, at 10. Additionally, the limited role of R&D in the tissue paper industry in Vietnam is further supported by the fact that Quijiang confirmed that it did not undertake any R&D initiatives and expenditures involved with tissue paper processing. *See* Quijiang’s Sixth Questionnaire Response, at 25. Accordingly, based on facts on the record of this circumvention inquiry and because the conversion of jumbo rolls to tissue paper products is a technically mature process, we find that R&D into the process of producing tissue paper products is not a significant factor in the Vietnamese tissue paper industry.

#### (c) The Nature of the Production Process in Vietnam

As discussed above, the element of the tissue paper production process performed by Quijiang in Vietnam is the conversion of the PRC-origin jumbo rolls to cut-to-length tissue paper. According to Quijiang, the entire process to produce cut-to-length tissue paper from the raw input, paper pulp, occurs in six stages. *See* Quijiang’s First Questionnaire Response, at Exhibit 1. However, according to Quijiang’s questionnaire responses, Quijiang’s conversion of the PRC-origin jumbo

rolls covers only the last two stages of the overall production process.<sup>4</sup> *Id.* According to Quijiang, seasonal workers were used in the conversion of the PRC-origin jumbo rolls to cut-to-length tissue paper during the final stage of the overall production process, which is primarily a manual operation. In contrast to the production process of converting PRC-origin jumbo rolls to cut-to-length tissue, Quijiang stated that Guilin Qifeng’s production of the PRC-origin jumbo rolls involved the first four stages of the overall production process required to produce cut-to-length tissue paper.<sup>5</sup> According to Quijiang, the fourth stage of the overall production process requires three shifts of workers and is labor intensive. *Id.*

Based on the above descriptions, we find that, in contrast to the first four stages of the overall production process that involved the production of jumbo rolls, which require significant equipment involved in the process and labor, the final two stages of the overall production process that involved the conversion of PRC-origin jumbo rolls are limited to cutting, dyeing, printing, and packaging/packing the cut-to-length tissue paper. Moreover, the facts on the record show that there is limited equipment and labor involved in these two stages of the production process. Accordingly, we find that the

<sup>4</sup> The first of the final two stages of the overall production process that involve the conversion of the jumbo rolls involves the following: (1) Workers unrolling and re-rolling the jumbo roll during the surface coloring, decorating, or embossing process; (2) preparing the dye and dip-dyeing the jumbo rolls; (3) multi-color printing the jumbo rolls on the printing machines; and (4) cutting the jumbo rolls to length on the cutting machines. The second of the final two stages of the overall production process that involve the conversion of the jumbo rolls involves the following: (1) Counting and folding the sheets prior to packaging; (2) packaging the sheets in polyethylene bags, sealing, and labeling the bags; and (3) packing the bags of tissue paper in cartons, which are tied in plastic strip and then shipped to the customer.

<sup>5</sup> The first of the first four stages of the overall production process that involve the production of the jumbo rolls is the blending stage (*i.e.*, this involves water and paper pulp being blended in a tank into a pulp mixture, which is pumped into crude stock storage). The second of the first four stages of the overall production process that involves the production of the jumbo rolls is the stock grinding stage (*i.e.*, this involves refining the crude stock by grinding the fibers into shorter lengths and then cleaning). The third of the first four stages of the overall production process that involve the production of the jumbo rolls is the stock preparation stage (*i.e.*, this involves the refined stock being pumped from a storage vat into a preparation tank where whiteners, dyes, or other fixatives may be added). The fourth of the first four stages of the overall production process that involve the production of the jumbo rolls is the paper-making stage (*i.e.*, this involves the prepared stock being moved onto a porous cylinder where the wet paper is then transferred to a second spinning cylinder and is wrapped onto and passes over a heated drum as it rotates).

<sup>3</sup> Because this information is business proprietary, the values have been ranged by plus or minus 10 percent.

production process conducted by Quijiang in converting the PRC-origin jumbo rolls to cut-to-length tissue paper is limited and minor when compared to the production process of the jumbo rolls.

(d) The Extent of Production Facilities in Vietnam

In analyzing the extent of the production facilities, we have considered the capital equipment used in the production process, the types of employees, and whether the facilities used by Quijiang in the conversion process were permanent facilities.

Quijiang states that when it began operations in July 2004, the facility had four conversion lines and dip-dyeing machines that were used to convert PRC-origin jumbo rolls to cut-to-length tissue paper. *See* Quijiang's First Questionnaire Response, at 8. A review of the records of the equipment at this facility shows that the capital equipment used to convert PRC-origin jumbo rolls to cut-to-length tissue paper consisted of paper-cutting machines, electronic scales, trolleys, and bed-plate. *See* Quijiang's Second Questionnaire Response, at Exhibit S1–5. Additionally, Quijiang also reports that it leased two facilities to conduct the printing and packaging processes. A review of the records of the equipment at these facilities shows that the capital equipment used to print and package the cut-to-length tissue paper consisted of packaging working tables and printing machines. *Id.*, at Exhibits S1–4 and S1–5.

In comparison, Quijiang states that Guilin Qifeng produced the PRC-origin jumbo rolls at one location in Guilin, PRC. *See* Quijiang's Fifth Questionnaire Response, at 6. A review of Guilin Qifeng's production process shows that the capital equipment used to produce the stock for the paper mixture consisted of numerous blending lines that have stock storage, storage vats, and numerous stock preparation tanks. *See* Quijiang's Fourth Questionnaire Response, at Appendix S4–5. Additionally, Guilin Qifeng's production process shows that the capital equipment used to produce the jumbo roll from the paper mixture consisted of two facilities that had numerous long net machines and numerous round net machines. *Id.* The facts on the record show that the capital equipment used by Guilin Qifeng to produce the PRC-origin jumbo rolls requires sophisticated machinery, such as blending lines and long net machines. In contrast, the capital equipment used by Quijiang to convert the PRC-origin jumbo rolls to cut-to-

length tissue paper did not require sophisticated capital equipment since the machinery only consisted of paper-cutting machines, packaging tables, etc. Therefore, based on the facts on the record, we find that Quijiang has not made substantial purchases of sophisticated machinery to convert PRC-origin jumbo rolls to cut-to-length tissue paper.

With regard to the level of employees involved in the conversion of PRC-origin jumbo rolls to cut-to-length tissue paper, Quijiang reported that skilled labor is involved in the first of the final two stages of the overall production process, cutting, dyeing, and printing of the jumbo rolls, is a semi-automatic operation. However, according to Quijiang, the last of the final two stages of the overall production process for converting the PRC-origin jumbo rolls to cut-to-length tissue paper is a manual operation, which involves unskilled labor folding and packaging the tissue paper. *See* Quijiang's First Questionnaire Response, at 12. Additionally, Quijiang reported that the workers involved in the packaging and packing of the cut-to-length tissue paper are seasonal workers. *Id.*, at Exhibit S1–5. Moreover, according to Quijiang, there are more workers involved during the last of the final two stages. *Id.* Based on a review of the labor involved in the conversion of PRC-origin jumbo rolls to cut-to-length tissue paper, we find that most of Quijiang's labor force consists of unskilled workers that are employed on a temporary basis.

Quijiang reports that the headquarters facility, which housed the conversion lines, and the two facilities which conducted the printing and packaging, were all leased by Quijiang from other, unaffiliated parties between July 2004 and July 2006. *See* Quijiang's Second Questionnaire Response, at Exhibit S1–3. Because the three facilities where Quijiang converted the PRC-origin jumbo rolls to cut-to-length tissue paper were leased rather than owned, we find that Quijiang's production facilities were temporary, rather than permanent. Accordingly, based on the fact that Quijiang's capital equipment was not substantial, Quijiang's labor force primarily consisted of unskilled temporary workers, and the facilities were leased, we find that the extent of Quijiang's production facilities to convert PRC-origin jumbo rolls to cut-to-length tissue paper was minimal.

(e) Whether the Value of the Processing Performed in Vietnam Represents a Small Portion of the Value of the Merchandise Sold in the United States

In prior circumvention cases pursuant to section 781(a) and section 781(b) of the Act, where the Department must determine whether the value of processing either in the United States or in a third country is minor, we used the U.S. sales and cost of production data because the countries at issue were market economy countries. *See Pasta Circumvention Prelim*, 68 FR at 46575 (unchanged in *Pasta Circumvention Final*, 68 FR 54888); *Certain Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China: Affirmative Final Determination of Circumvention of Antidumping Duty Order*, 59 FR 15155, 15156 (March 31, 1994). However, in this case, both the country that produced the jumbo rolls and the country that produced the tissue paper products from the jumbo rolls are considered NME countries. Therefore, because the production of jumbo rolls and the cut-to-length tissue paper is performed in NME countries, we used surrogate values to determine whether the value of processing performed in Vietnam represents a small portion of the value of the merchandise sold in the United States.

In accordance with section 773(c)(4) of the Act, in valuing the factors of production ("FOPs"), the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market-economy countries that are at a level of economic development comparable to that of the NME country and are significant producers of comparable merchandise. The Department selected India as the surrogate country for both the PRC and Vietnam on the basis that: (1) It is at a similar level of economic development pursuant to section 773(c)(4) of the Act; (2) it is a significant producer of comparable merchandise; and (3) we have reliable data from India. *See* Memorandum to the File from Julia Hancock, through Alex Villanueva, Program Manager, AD/CVD Operations, Office 9, and James C. Doyle, Director, AD/CVD Operations, Office 9: *Circumvention Inquiry on Certain Tissue Paper Products from the People's Republic of China: Surrogate Country and Surrogate Values for the Preliminary Determination* (April 14, 2008) ("Surrogate Country and Value Memorandum"). Thus, we have calculated the value of processing performed in Vietnam and the value of the PRC-origin jumbo rolls using surrogate prices from India. The sources

of the surrogate values we have used in this circumvention inquiry are discussed in the Surrogate Country and Value Memorandum.

To calculate the value of the PRC-origin jumbo rolls, we used publicly available Indian import prices for Harmonized Tariff Schedule ("HTS") 4802.54.50, described as "Uncoated Paper in Rolls, under 40 grams, Tissue Paper," as reported in the *Monthly Statistics of the Foreign Trade of India*.<sup>6</sup> We calculated the surrogate value for PRC-origin jumbo rolls using monthly data for July 2004 to July 2006 because Quijiang reported that July 2006 was the last month that Guilin Qifeng produced jumbo rolls that were sold to Quijiang. See Quijiang's Sixth Questionnaire Response, at 12 and Appendix S6–16. We converted the surrogate value into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect for July 1, 2004, to July 31, 2006, as certified by the Federal Reserve Bank. For further information, see Surrogate Country and Value Memorandum.

To calculate the value of Quijiang's processing of the finished merchandise, we used Quijiang's FOPs for each stage of converting PRC-origin jumbo rolls to tissue paper, *i.e.*, from the cutting of the jumbo rolls into cut-to-length sheets of tissue paper, dyeing (where appropriate), printing (where appropriate), and packaging of the final product. See Quijiang's First Questionnaire Response, at Exhibit 1. We multiplied the reported per-unit factor consumption rates by the Indian surrogate values.<sup>7</sup> In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data.

To derive the value added to the finished merchandise by Quijiang's processing, we divided the total value of the finished merchandise (*i.e.*, sum of the surrogate value of the PRC-origin jumbo rolls and Quijiang's value of

processing), by Quijiang's value of processing. The value added to the finished merchandise by Quijiang's processing is an average value of approximately 34 percent.<sup>8</sup> Based on our analysis of the value added, we find that the value of the processing performed by Quijiang to convert the PRC-origin jumbo rolls to cut-to-length tissue paper does not represent a small proportion of the value of the finished merchandise sold in the United States. See Analysis Memorandum.

#### **Summary of Analysis of Whether the Process of Assembly or Completion in the Foreign Country Is Minor or Insignificant**

In sum, we preliminarily conclude that the record evidence of this circumvention inquiry supports a finding that the process or completion of the PRC-origin jumbo rolls to cut-to-length tissue paper in Vietnam is minor or insignificant. Pursuant to section 781(b)(2)(A) of the Act, we find that the level of investment by Quijiang in the equipment used to convert the PRC-origin jumbo rolls is minor compared to the level of investment provided by Guilin Qifeng. Pursuant to section 781(b)(2)(B) of the Act, we find that the absence of R&D initiatives by Quijiang in the production of tissue paper products shows that R&D is not a significant factor in the Vietnamese tissue paper industry. Pursuant to section 781(b)(2)(C) of the Act, we find that the portion of the overall production process of cut-to-length tissue paper conducted by Quijiang in converting the PRC-origin jumbo rolls to cut-to-length tissue paper is limited and minor when compared to Guilin Qifeng's share of the overall production process in the production of the jumbo rolls. Pursuant to section 781(b)(2)(D) of the Act, we find that the extent of Quijiang's production facilities is minor with respect to converting PRC-origin jumbo rolls to cut-to-length tissue paper because the capital equipment used by Quijiang in converting the PRC-origin jumbo rolls is not substantial in comparison to the capital equipment used by Guilin Qifeng to produce the jumbo rolls, the labor force used by Quijiang is composed primarily of unskilled workers, and Quijiang's facilities were leased, not permanent. Finally, pursuant to section 781(b)(2)(E) of the Act, we find that value of the processing performed by Quijiang to convert the PRC-origin jumbo rolls to cut-to-length tissue paper does not

represent a small proportion of the value of the finished merchandise sold in the United States.

While the statutory factor, section 781(b)(2)(E) of the Act, is inconclusive, the information on the record regarding the four other statutory factors, sections 781(b)(2)(A), (B), (C), and (D) of the Act, shows that the processing operation to convert PRC-origin jumbo rolls to cut-to-length tissue paper in Vietnam is minor or insignificant. We have based our decision as to whether the processing operation to convert PRC-origin jumbo rolls to cut-to-length tissue paper is minor or insignificant based on the totality of the record evidence of this circumvention inquiry. Specifically, the legislative history to section 781(b) indicates that Congress intended the Department to make determinations regarding circumvention on a case-by-case basis in recognition that the facts of individual cases and the nature of specific industries vary widely. See *S. Rep. No. 103–412* (1994), at 81–82.

Although we find pursuant to section 781(b)(2)(E) of the Act, that the value of the processing performed by Quijiang to convert the PRC-origin jumbo rolls to cut-to-length tissue paper does not represent a small proportion of the value of the finished merchandise sold in the United States, the preponderance of the other record evidence, pursuant to sections 781(b)(2)(A), (B), (C), and (D) of the Act, shows that the value of the processing operation in Vietnam is minor or insignificant. Accordingly, based on a review of the record evidence, it is clear that the majority of the actual production process for cut-to-length tissue paper is concentrated in Guilin Qifeng's production facilities in the PRC. Therefore, we find that the processing operation to convert PRC-origin jumbo rolls to cut-to-length tissue paper in Vietnam is minor or insignificant, pursuant to section 781(b)(1)(C) of the Act.

#### **(D) Whether the Value of the Merchandise Produced in the Foreign Country to Which the Order Applies Is a Significant Portion of the Total Value of the Merchandise Exported to the United States**

Under section 781(b)(1)(D) of the Act, the value of the merchandise produced in the foreign country to which the Order applies must be a significant portion of the total value of the merchandise sold in the United States in order to find circumvention. The major parts and components that consist of the total value of the cut-to-length tissue paper sold in the United States are: PRC-origin jumbo rolls, inks and dyes, and packaging materials. As

<sup>6</sup> The same import prices are also available from the *World Trade Atlas* ("WTA"), published by Global Trade Information Services, Inc., which is a secondary electronic source based upon the publication *Monthly Statistics of the Foreign Trade of India. Volume II: Imports*.

<sup>7</sup> As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F.3d 1401, 1407–08 (Fed. Cir. 1997). Additionally, we made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

<sup>8</sup> Because this information is business proprietary, we have ranged the values by plus or minus 10 percent.



discussed in the section of “*Whether Merchandise Sold in The United States is Completed or Assembled in Another Foreign Country From Merchandise Which Is Subject to the Order or Produced In the Foreign Country That Is Subject to the Order*,” in all instances the PRC-origin jumbo rolls are imported from Guilin Qifeng, which is located in the PRC. Additionally, the value of the PRC-origin jumbo rolls is approximately an average value of 66 percent of the total value of the finished merchandise.<sup>9</sup> As discussed above, although the value of the processing conducted in Vietnam is not small, we find that the value of the PRC-origin jumbo rolls constitutes a great majority of the value of the finished merchandise. Based on our analysis, the value of the PRC-origin jumbo rolls taken as a whole constitutes a significant portion of the value of the finished product ultimately sold in the United States.

#### Other Factors To Consider

In making a determination whether to include merchandise assembled or completed in a foreign country within an order, section 781(b)(3) of the Act instructs us to take into account such factors as: (A) The pattern of trade, including sourcing patterns; (B) whether affiliation exists between the exporter of the merchandise and the person who uses the merchandise to assemble or complete in the foreign country the merchandise that is sold in the United States; and (C) whether imports into the foreign country of the merchandise described in section 781(b)(1)(B) have increased since the initiation of the original investigation. Each of these factors is examined below.

##### (A) Pattern of Trade and Sourcing

The first factor to consider under section 781(b)(3) is changes in the pattern of trade, including changes in the sourcing patterns. To evaluate the pattern of trade in this case, we examined Quijiang's source channel of jumbo rolls. According to Quijiang, it started sourcing PRC-origin jumbo rolls from Guilin Qifeng in July 2004 to produce tissue paper products that Quijiang exported to the United States. See Quijiang's First Questionnaire Response, at 12. Additionally, the record of this circumvention inquiry shows that between July 2004 and July 2006, Quijiang did not purchase PRC-origin jumbo rolls from any other supplier. See *id.*, at Exhibit 11; Quijiang's Sixth Questionnaire

Response, at 13 and Appendix S6–16. Based on the facts on the record, we find that the fact that Quijiang sourced jumbo rolls from a PRC supplier to produce tissue paper products, which were exported to the United States, supports a finding that circumvention was occurring during this period.<sup>10</sup>

We also examined the timing and quantities of Quijiang's exports to the United States of tissue paper that were produced from PRC-origin jumbo rolls since the initiation of the LTFV investigation in March 2004. A review of Quijiang's monthly total exports shows that from July 2004 to July 2006, Quijiang's exports of tissue paper products produced from PRC-origin rolls to the United States consisted of the majority of Quijiang's total monthly exports. See Quijiang's Fifth Questionnaire Response, at Exhibit 6. These data indicate that the monthly volume of Quijiang's exports of tissue paper products produced from PRC-origin jumbo rolls to the United States was significant subsequent to the initiation of the LTFV investigation. Additionally, we examined the timing and quantities of exports of tissue paper from the PRC to the United States between 2004 and 2006, and exports of tissue paper from Vietnam to the United States between 2004 and 2006. A review of the data shows that PRC exports of tissue paper to the United States decreased by 59.2 percent between 2004 and 2006, whereas Vietnam exports of tissue paper to the United States increased by 1739.11 percent between 2004 and 2006. See Analysis Memorandum. Accordingly, the data show that PRC exports have decreased significantly whereas Vietnamese exports have increased significantly since the initiation of the LTFV investigation. Therefore, based on the facts on the record, we find that the pattern of trade has changed since the

<sup>10</sup> The Department recognizes that Petitioner submitted comments on February 4, 2008, alleging that Quijiang, contrary to its own declarations, continued to import semi-completed tissue paper products from the PRC after July 2006. However, the Department finds Petitioner's evidence in support of its allegations to be inconclusive. Accordingly, a factual finding that Quijiang was not truthful in its statements to the Department with respect to this issue is not warranted. Thus, the Department cannot conclude either as a factual matter or based upon an adverse inference resulting from Quijiang's failure to cooperate to the best of its ability that all exports of subject merchandise by Quijiang were produced from Chinese-origin semi-finished tissue paper products. However, if the Department reaches a final determination of circumvention in this proceeding, the 2007/2008 administrative review will cover all of Quijiang's entries as of the date of initiation of this circumvention inquiry, and the Department will further investigate the issue of origin of all covered entries in the context of such review.

initiation of the LTFV investigation and the imposition of the *Order* and thus, supports a finding that circumvention has occurred.

##### (B) Affiliation

The second factor to consider under section 781(b)(3) of the Act is whether the manufacturer or exporter of the tissue paper is affiliated with the entity that assembles or completes the merchandise sold in the United States from the imported PRC-origin jumbo rolls. Generally, we consider circumvention to be more likely to occur when the manufacturer of the covered merchandise is related to the third country assembler and is a critical element in our evaluation of circumvention. See *Color Picture Tubes From Canada, Japan, Republic of Korea & Singapore: Negative Final Determinations of Circumvention of Antidumping Duty Orders*, 56 FR 9667 (March 7, 1991) and accompanying Issues and Decision Memorandum at Comment 8. The record evidence of this circumvention inquiry indicates that the Vietnamese assembler, Quijiang, which converted the PRC-origin jumbo rolls into tissue paper products, is a wholly-owned subsidiary of Guilin Qifeng. See Quijiang's First Questionnaire Response, at 4. Accordingly, because Quijiang is 100 percent owned by Guilin Qifeng, we find that Quijiang and Guilin Qifeng are affiliated, pursuant to section 771(33) of the Act. Additionally, the record evidence shows that Guilin Qifeng was Quijiang's sole supplier of PRC-origin jumbo rolls. See Quijiang's Second Questionnaire Response, at 3. In sum, we find that the record evidence demonstrates that the relationship between Quijiang and Guilin Qifeng supports a finding that circumvention of the *Order* may have occurred during the period of investigation.

##### (C) Whether Imports Have Increased

The third factor to consider under section 781(b)(3) is whether imports into the foreign country of the merchandise described in section 781(b)(1)(B) have increased since the initiation of the original investigation. Generally, we consider circumvention to be more likely when imports of jumbo rolls, the merchandise imported from the PRC, have increased into Vietnam. Because Quijiang was not established until June 2004, we reviewed Quijiang's imports of PRC-origin jumbo rolls from July 2004, which was when it began importing PRC-origin jumbo rolls, to the issuance of the *Order*, and compared these imports to those after the issuance of the *Order*. See Quijiang's First

<sup>9</sup> Because this information is business proprietary, we have ranged the values by plus or minus 10 percent.

Questionnaire Response, at Exhibit 11. The Department finds that Quijiang's imports of PRC-origin jumbo rolls were at their highest levels in the months after the issuance of the *Order* through July 2006. *Id.*

Additionally, the Department obtained PRC export data of tissue paper products to Vietnam since 2004, which was the year that the LTFV investigation was initiated. The Department has obtained PRC export data of HTS 4802.54, which is defined as "Paper/Paperboard (Excluding Mechanical Fibers), Weighing <40 grams."<sup>11</sup> Although HTS 4802.54 does not necessarily provide export data specific to jumbo rolls, the Department finds that it is reasonable to assume that at least a portion of the data contains exports of jumbo rolls and thus, are the best available data in determining PRC exports of jumbo rolls.

In reviewing PRC exports of HTS 4802.54 between 2003 and 2006, the Department finds that PRC exports to Vietnam have steadily increased since the initiation of the LTFV investigation. See Analysis Memorandum. Specifically, the Department finds that the PRC total exports to Vietnam increased by 41.12 percent between 2003 and 2006. This increase corresponds with the initiation of the LTFV investigation and issuance of the *Order*. Accordingly, we find that both the increase in Quijiang's imports of PRC-origin jumbo rolls and the increase in PRC exports to Vietnam since the initiation of the LTFV investigation supports a finding that circumvention may have occurred.

#### Summary of Statutory Analysis

As discussed above, in order to make an affirmative determination of circumvention, all the elements under sections 781(b)(1) of the Act must be satisfied, taking into account the factors under section 781(b)(2). In addition, section 781(b)(3) of the Act instructs the Department to consider, in determining whether to include merchandise assembled or completed in a foreign country within the scope of an order, such factors as: Pattern of trade, affiliation, and whether imports into the foreign country of the merchandise described in section 781(b)(1)(B) have increased after the initiation of the investigation. Pursuant to section 781(b)(1) of the Act, we find that the merchandise sold in the United States is within the same class or kind of

merchandise that is subject to the *Order* and was completed or assembled in a third country. Additionally, pursuant to section 781(b)(2), we find that the process or assembly of the PRC-origin jumbo rolls to cut-to-length tissue paper by Quijiang is minor and insignificant. Furthermore, in accordance with section 781(b)(1)(D) and 781(b)(1)(E) of the Act, we find that the value of the merchandise produced in the PRC is a significant portion of the total value of the merchandise exported to the United States and that action is appropriate to prevent evasion of the *Order*. Thus, we find affirmative evidence of circumvention in accordance with section 781(b)(1) and (2) of the Act. Moreover, we find the factors required by section 781(b)(3) of the Act indicate that there is circumvention of the *Order*. Consequently, our statutory analysis leads us to find that during the period of time examined there was circumvention of the *Order* as a result of Quijiang's conversion of the PRC-origin jumbo rolls to cut-to-length tissue paper in Vietnam, as discussed above.

#### Suspension of Liquidation

In accordance with section 733(d) of the Act, the Department will direct CBP to suspend liquidation and to require a cash deposit of estimated duties, at the PRC-wide rate, on all unliquidated entries of certain tissue paper products produced by Quijiang that were entered, or withdrawn from warehouse, for consumption from on or after September 5, 2006, the date of initiation of the circumvention inquiry, through the date of publication of the preliminary determination, with the exception described below.

After consideration of Petitioner's comments between January 8, 2007, and April 3, 2008, arguing that the Department should not allow Quijiang to certify that these entries of tissue paper products are not produced from PRC-origin jumbo rolls, the Department notes that no party on the record has contested that Quijiang itself now in Vietnam produces jumbo rolls suitable for conversion into the tissue paper products meeting the physical description of products subject to the scope of the *Order*. Given that some of Quijiang's tissue paper products may be made from Vietnamese-origin jumbo rolls, and given that the Department does not consider it appropriate to suspend liquidation of such non-subject merchandise, the Department finds it appropriate to follow precedent and permit certification as described below. See *Circumvention and Scope Inquiries of the Antidumping Duty Order on Certain Frozen Fish Fillets from the*

*Socialist Republic of Vietnam: Partial Affirmative Final Determination of Circumvention of the Antidumping Duty Order, Partial Final Determination of Circumvention Inquiry and Final Rescission of Scope Inquiry*, 71 FR 38608 (July 7, 2006) and accompanying Issues and Decision Memorandum at Comment 3. However, in the event of a final determination of circumvention, the Department will expand the third administrative review period back to September 5, 2006, the date of initiation of this circumvention inquiry, to include all of Quijiang's entries covered by this determination. In addition, we hereby serve notice to Quijiang that such certified entries are subject to verification by the Department. The Department will examine any records Quijiang maintains in its normal course of business, or any information placed on the record, supporting or calling into question its certifications that no PRC-origin jumbo rolls were used in the production of its tissue paper products.

For all entries of certain tissue paper products produced by Quijiang that entered on or after the date of the publication of the *Initiation*, the Department will instruct CBP to allow Quijiang to certify that no PRC-origin jumbo rolls were used in the production of the certain tissue paper products. The Department will not request that CBP suspend liquidation, or require a cash deposit of estimated duties, at the PRC-wide rate, for any entries of certain tissue paper products accompanied by the certification in Appendix I in this notice. However, the Department will direct CBP to suspend liquidation and to require a cash deposit of estimated duties, at the PRC-wide rate of 112.64 percent of any entries of certain tissue paper products not accompanied by the attached certification in Appendix I of this notice.

#### Notification to the International Trade Commission

The Department, consistent with section 781(e) of the Act, has notified the International Trade Commission ("ITC") of this preliminary determination to include the merchandise subject to this inquiry within the antidumping duty order on certain tissue paper products from the PRC. Pursuant to section 781(e) of the Act, the ITC may request consultations concerning the Department's proposed inclusion of the subject merchandise. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 15 days to provide written advice to the Department.

<sup>11</sup> The Department has obtained PRC export data for jumbo rolls using 4802.54 because HTS 4802.54 includes exports for both finished tissue paper and jumbo rolls, which are classified under this HTS category.



## Public Comment

Interested parties may submit publicly available information to value the FOPs within 15 days after the date of publication of the preliminary determination.<sup>12</sup> Case briefs from interested parties may be submitted no later than 40 days from the publication of this notice. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. Rebuttal briefs limited to issues raised in the initial comments may be filed no later than 45 days after the publication of this notice.

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, U.S. Department of Commerce, Room 1870, within 25 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief and may make rebuttal presentations only on arguments included in that party's rebuttal brief. We intend to hold a hearing, if requested, no later than 50 days after the publication of this notice.

## Final Determination

The final determination with respect to this circumvention inquiry will be issued no later than ninety days from the publication of this notice, including the results of the Department's analysis of any written comments.

This affirmative preliminary circumvention determination is published in accordance with section 781(b) of the Act and 19 CFR 351.225.

<sup>12</sup> In accordance with 19 CFR 351.301(c)(1), for the final determination of this circumvention inquiry, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. The Department generally cannot accept the submission of additional, previously absent-from-the-record alternative surrogate value information pursuant to 19 CFR 351.301(c)(1). See *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum at Comment 2.

Dated: April 15, 2008.

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

## Attachment I

### Certification of Vietnam Quijiang Paper Co., Ltd.

#### Certification to U.S. Customs and Border Protection

1. Vietnam Quijiang Paper Co., Ltd. ("Vietnam Quijiang") hereby certifies that the certain tissue paper products being exported and subject to this certification were not produced from Chinese origin jumbo rolls.

2. By signing this certificate, Vietnam Quijiang also hereby agrees to maintain sufficient documentation supporting the above statement such as country of origin certificates for all jumbo rolls used to process the exported certain tissue paper products. Further, Vietnam Quijiang agrees to submit to verification of the underlying documentation supporting the above statement. Vietnam Quijiang agrees that failure to submit to verification of the documentation supporting these statements will result in immediate revocation of certification rights and that Vietnam Quijiang will be required to post a cash deposit equal to the China-wide entity rate on all entries of certain tissue paper products. In addition, if the Department of Commerce identifies any misrepresentation or inconsistencies regarding the certifications, Vietnam Quijiang recognizes that the matter may be reported to the U.S. Customs and Border Protection by the Department for possible enforcement action.

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

[FR Doc. E8-8679 Filed 4-21-08; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-570-913]

#### Notice of Preliminary Negative Determination of Critical Circumstances: Certain New Pneumatic Off-the-Road Tires From the People's Republic of China

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

**SUMMARY:** The Department of Commerce (the Department) has preliminarily determined that critical circumstances do not exist with respect to imports of

certain pneumatic off-the-road (OTR) tires from the People's Republic of China (PRC).

**EFFECTIVE DATE:** April 22, 2008.

#### FOR FURTHER INFORMATION CONTACT:

Scott Lindsay, 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) 482-0780.

#### SUPPLEMENTARY INFORMATION:

##### Period of Investigation

The period for which we are measuring subsidies, or the period of investigation (P01), is calendar year 2006.

##### Scope of Investigation

The products covered by the scope of this investigation are new pneumatic tires designed for off-the-road (OTR) and off-highway use, subject to exceptions identified below. Certain OTR tires are generally designed, manufactured and offered for sale for use on off-road or off highway surfaces, including but not limited to, agricultural fields, forests, construction sites, factory and warehouse interiors, airport tarmacs, ports and harbors, mines, quarries, gravel yards, and steel mills. The vehicles and equipment for which certain OTR tires are designed for use include, but are not limited to: (1) Agricultural and forestry vehicles and equipment, including agricultural tractors,<sup>1</sup> combine harvesters,<sup>2</sup> agricultural high clearance sprayers,<sup>3</sup> industrial tractors,<sup>4</sup> log-skidders,<sup>5</sup> agricultural implements, highway-towed implements, agricultural logging, and agricultural, industrial, skid-steers/mini-loaders;<sup>6</sup> (2) construction vehicles and equipment, including earthmover articulated dump products, rigid frame

<sup>1</sup> Agricultural tractors are four-wheeled vehicles usually with large rear tires and small front tires that are used to tow farming equipment.

<sup>2</sup> Combine harvesters are used to harvest crops such as corn or wheat.

<sup>3</sup> Agricultural sprayers are used to irrigate agricultural fields.

<sup>4</sup> Industrial tractors are four-wheeled vehicles usually with large rear tires and small front tires that are used to tow industrial equipment.

<sup>5</sup> A log skidder has a grappling lift arm that is used to grasp, lift and move trees that have been cut down to a truck or trailer for transport to a mill or other destination.

<sup>6</sup> Skid-steer loaders are four-wheel drive vehicles with the left-side drive wheels independent of the right-side drive wheels and lift arms that lie alongside the driver with the major pivot points behind the driver's shoulders. Skid-steer loaders are used in agricultural, construction and industrial settings.