

**Verification**

As provided in section 782(i)(1) of the Act, we intend to verify the information upon which we will rely in making our final determination.

**Combination Rates**

In the *Initiation Notice*, the Department stated that it would calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. *See*

*Initiation Notice*, 72 FR at 60806. This practice is described in *Policy Bulletin 05.1*, available at <http://ia.ita.doc.gov/>.

**Preliminary Determination**

The weighted-average dumping margins are as follows:

**PET FILM FROM THE PRC**

| Exporter   | Producer                                       | Weighted-Average Margin |
|--|--|-------------------------|
| DuPont Teijin Films China Ltd. ....                                  | DuPont Hongji Films Foshan Co. Ltd.            | 46.82%                  |
| DuPont Teijin Films China Ltd. ....                                  | DuPont Teijin Hongji Films Ningbo Co., Ltd.    | 46.82%                  |
| Fuwei Films (Shandong) Co., Ltd. ....                                | Fuwei Films (Shandong) Co., Ltd.               | 46.82%                  |
| Shaoxing Xiangyu Green Packing Co., Ltd. ....                        | Shaoxing Xiangyu Green Packing Co., Ltd.       | 46.82%                  |
| Sichuan Dongfang Insulating Material Co., Ltd. ....                  | Sichuan Dongfang Insulating Material Co., Ltd. | 46.82%                  |
| Tianjin Wanhua Co., Ltd. ....  | Tianjin Wanhua Co., Ltd.                       | 46.82%                  |
| Shanghai Uchem Co., Ltd. ....  | Sichuan Dongfang Insulating Material Co., Ltd. | 46.82%                  |
| Shanghai Uchem Co., Ltd. ....  | Shanghai Xishu Electric Material Co., Ltd.     | 46.82%                  |
| PRC-wide (including Jiangyin Jinzhongda New Material Co., Ltd.) .... |  | 76.72%                  |

**Disclosure**

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

**Suspension of Liquidation**

In accordance with section 733(d) of the Act, we will instruct CBP to suspend liquidation of all entries of PET Film from the PRC as described in the "Scope of Investigation" section, entered, or withdrawn from warehouse, for consumption from DTFC, Fuwei Films, Green Packing, Tianjin Wanhua, Sichuan Dongfang, Shanghai Uchem, and the PRC-wide entity on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds U.S. price, as indicated above.

**International Trade Commission Notification**

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination of sales at less than fair value. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of PET Film, or sales (or the likelihood of sales) for importation, of the subject merchandise within 45 days of our final determination.

**Public Comment**

Case briefs or other written comments may be submitted to the Assistant

Secretary for Import Administration no later than seven days after the date of the final verification report is issued in this proceeding and rebuttal briefs limited to issues raised in case briefs no later than five days after the deadline date for case briefs (*see* 19 CFR 351.309(c)(i) and (d)). 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.

In accordance with section 774 of the Act, and if requested, we will hold a public hearing, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. If a request for a hearing is made, we intend to hold the hearing shortly after the deadline of submission of rebuttal briefs at the U.S. Department of Commerce, 14<sup>th</sup> Street and Constitution Ave, NW, Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

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 30 days after the date of publication of this notice. *See* 19 CFR 351.310(c). 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.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: April 25, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E8-9845 Filed 5-2-08; 8:45 am]

**BILLING CODE 3510-DS-S**

**DEPARTMENT OF COMMERCE****International Trade Administration**

(A-351-841)

**Notice of Preliminary Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip from Brazil**

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

**EFFECTIVE DATE:** June 5, 2008.

**SUMMARY:** The U.S. Department of Commerce (the Department) preliminarily determines that polyethylene terephthalate film, sheet, and strip (PET film) from Brazil is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Tariff Act). The estimated margins of sales at LTFV are listed in the "Suspension of Liquidation" section of this notice. Interested parties are invited to comment on this preliminary determination. Accordingly, we will make our final determination not later than 75 days after the signature date of

the preliminary determination, in accordance with 19 CFR 351.210.

**FOR FURTHER INFORMATION CONTACT:**

Michael J. Heaney, or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4475, or (202) 482-0649, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background:**

On October 26, 2007, the Department initiated the antidumping duty investigation of PET film from Brazil. *See Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates: Initiation of Antidumping Duty Investigations*, 72 FR 60801 (October 26, 2007) (*Initiation Notice*). The petitioners in this investigation are DuPont Teijin Films, Mitsubishi Polyester Film Inc., SKC Inc., and Toray Plastics (America) Inc.

On November 13, 2007, the United States International Trade Commission (the Commission) preliminarily determined there is a reasonable indication that imports of PET film from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates are materially injuring the U.S. industry and notified the Department of its findings. *See Polyethylene Terephthalate Film, Sheet, and Strip From Brazil, China, Thailand, and the United Arab Emirates Case Number. 731-TA-1131-1134 (Preliminary)*, 72 FR 67756, (November 30, 2007).

On November 15, 2007, Avery Dennison Fason Roll North America (Avery Dennison) requested that the Department find that "release liner," a PET film product treated on one or both sides with a specially-cured silicon coating of less than 0.00001 inches, is outside the scope of the investigations. Petitioners objected to Avery Dennison's request on November 29, 2007; petitioners re-submitted their objections with amended bracketing on December 14, 2007, and the document was accepted for the record on that date. Petitioners insist release liner is "PET film that clearly falls within the scope of these investigations." *See* Petitioners' December 14, 2007 submission at 1 and 2. Avery Dennison responded to petitioners comments on February 1, 2008.

In accordance with section 731(1) of the Tariff Act, we have determined that the descriptions of the merchandise contained in the petition and the *Notice of Initiation* support the conclusion that

release film is of the same class or kind of merchandise covered by the proposed antidumping order. *See* also generally 19 CFR 351.225(k)(1). The product descriptions in the petition and in the Department's *Notice of Initiation* specifically exclude finished films with a "performance enhancing resinous or inorganic layer of more than 0.00001 inches thick." There is nothing in the proposed scope language of either the petition or our *Notice of Initiation* that excludes products bearing a performance enhancing resinous or inorganic layer of less than 0.00001 inches from the scope of the order. Moreover, there is no language in either the proposed scope language of the petition or our *Notice of Initiation* that limits the scope of the investigation to "PET base film" (*i.e.*, PET film prior to the application of in-line coatings), as Avery Dennison suggests. In addition, release liner shares the chemical composition of PET film described in the proposed scope of the petition and *Notice of Initiation*.

One of the purposes of a less than fair value investigation is to decide the class or kind of merchandise specifically covered by the scope of the ultimate antidumping order. Based upon the foregoing, we have preliminarily determined that release film is of the same class or kind of merchandise covered by the scope of the AD investigation of PET film from Brazil. Thus, we have determined that release film is covered by the scope of the AD investigation of PET film from Brazil. For a full discussion of this issue *see* the memorandum titled "Antidumping Duty Investigations on Polyethylene Terephthalate Film, Sheet, and Strip (PET film) from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates," from Michael J. Heaney, Senior Case Analyst, to Stephen J. Claes, Deputy Assistant Secretary for Import Administration, dated April 25, 2008, and issued concurrently with this notice.

On January 23, 2008, the petitioners requested the Department postpone the preliminary determination by 50 days. The Department published a notice of postponement on February 11, 2008, which set the new deadline for the preliminary determination at April 25, 2008. *See Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates: Postponement of Preliminary Determination of Antidumping Duty Investigations*, 73 FR 7710, (February 11, 2008).

In their September 28, 2007 petition, Petitioners identified one respondent,

Terphane Ltda. (Brazil) (Terphane). *See* Antidumping Petition: Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, People's Republic of China, Thailand, and the United Arab Emirates at 11. *See* also, October 18, 2007, Initiation Checklist: Polyethylene Terephthalate Film, Sheet, and Strip from Brazil (Initiation Checklist) at 2.

We issued our antidumping questionnaire to Terphane on November 21, 2007. Terphane submitted its section A response on December 21, 2007. The Department received Terphane's response to sections B, C, D, and E of our questionnaire on January 15, 2008. Our analysis of Terphane's section A, B, C, D, and E responses indicated numerous areas requiring additional information and clarification from Terphane. Those areas which required additional information and clarification from Terphane included: 1) whether affiliated parties provided any of the sales or production inputs used in the sale of PET film, 2) how the United States and home market sales totals shown in Terphane's response relate and reconcile to Terphane's financial statements, 3) the allocation method used by Terphane to derive U.S. ocean freight, warehousing, and U.S. inland freight charges, and 4) how Terphane derived the cost of production (COP) and constructed value (CV) data reported in its section D response. Petitioners provided comments on Terphane's response on February 19, 2008. On February 13, 2008, we sent a supplemental questionnaire to Terphane requesting additional information concerning its January 15, 2008 Section D Response. *See* the Department's February 13, 2008, letter to Terphane Ltda. (February 13 letter). On February 29, 2008, we issued a supplemental questionnaire covering Terphane's Section A, B, and C responses. *See* February 29, 2008 letter to Terphane Ltda., (February 29, 2008 letter). However, on March 26, 2008, Terphane submitted a letter indicating that it was withdrawing from the investigation, and thus would no longer participate or cooperate with the Department's request for information.

As a result, the home market and U.S. sales and cost data submitted by Terphane are incomplete, and as noted above, there are still significant deficiencies in Terphane's Section A, B, C, D and E responses that require additional information and/or clarification. In addition, we cannot verify Terphane's responses. Thus, because we are unable to trust the reliability of the information conveyed in Terphane's questionnaire responses, Terphane's questionnaire responses

cannot serve as the basis of Terphane's margin calculation. See Section below entitled, "Use of Facts Otherwise Available."

#### Period of Investigation:

The POI is July 1, 2006, to June 30, 2007.

#### Scope of Investigation:

The products covered in this investigation are all gauges of raw, pre-treated, or primed PET film, whether extruded or co-extruded. Excluded are metalized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer more than 0.00001 inches thick. Also, excluded is Roller transport cleaning film which has at least one of its surfaces modified by application of 0.5 micrometers of SBR latex. Tracing and drafting film is also excluded. PET film is classifiable under subheading 3920.62.00.90 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

#### Model Match:

In accordance with section 771(16) of the Tariff Act, all products produced by the respondent covered by the description in the *Scope of Investigation* section, above, and sold in Brazil during the POI are considered to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales.

The Department set aside a period of time for parties to raise issues regarding model match and encouraged all parties to submit comments concerning our model-match procedures. See October 30, 2008, letter from Robert James to All Interested Parties. We received model-match comments from petitioners on November 7, 2007. In their comments, petitioners suggested that we employ each of the model match criteria used in the Preliminary Results of the Changed Circumstances Review of PET film from Korea. See, *Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea; Preliminary Results of Changed Circumstances Review and Intent to Reinstate Kolon Industries Inc. in the Antidumping Order*, 72 FR 56048 (October 2, 2007) *Korean CC Review*. The model-match criteria employed in the *Korean CC Review* were: 1) specification, 2) thickness, 3) surface treatment, and 4) grade. *Id.*, at 56049. In addition to 1) specification, 2) thickness, 3) surface treatment, and 4)

grade. In addition, petitioners suggested that we also consider a fifth criterion: whether the product has been extruded. See Petitioners November 7, 2007, letter at 1–2. For purposes of this preliminary determination, the Department has determined that it is unnecessary to change the proposed product characteristics and model matching methodology with regard to coextrusion. For purposes of distinguishing subject merchandise, the Department will take into account the grade of PET film, as advocated by petitioners in their submission.

#### Use of Facts Otherwise Available:

For the reasons discussed below, we determine the use of facts available is appropriate for the preliminary determination with respect to Terpane. As noted in the Supplementary Information section above, Terpane has withdrawn from the proceeding. Additionally, Terpane failed to respond to our supplemental questionnaires of February 13, 2008 and February 29, 2008. As such, Terpane has withheld information necessary to calculate a margin for Terpane.

Section 776(a)(2) of the Tariff Act provides that if an interested party withholds information requested by the administering authority, fails to provide such information by the deadlines for submission of the information and in the form or manner requested, subject to subsections (c)(1) and (e) of section 782, significantly impedes a proceeding under this title, or provides such information but the information cannot be verified as provided in 782(i), the administering authority shall use, subject to section 782(d) of the Tariff Act, facts otherwise available in reaching the applicable determination. Section 782(d) of the Tariff Act provides that if the administering authority determines a response to a request for information does not comply with the request, the administering authority shall promptly inform the responding party and provide an opportunity to remedy the deficient submission. Section 782(e) of the Tariff Act states further the Department shall not decline to consider submitted information if all of the following requirements are met: (1) the information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

In this case, Terpane has withdrawn from the proceeding, and, thus, has determined not to participate further or to cooperate with the Department's requests for information. Moreover, as noted previously, the U.S., home market, and cost information provided by Terpane in its December 21, 2007, Section A response and its January 15, 2008, Section B, C, D, and E responses is substantially deficient. Terpane also failed to provide requested information by the established deadlines. Additionally, Terpane's decision to withdraw from this investigation has precluded the Department from conducting the verification of Terpane's questionnaire responses required by Section 782(i)(1) of the Act, and has demonstrated its failure to act to the best of its ability in responding to our requests for information.

#### Application of Adverse Inferences for Facts Available

Section 776(b) of the Act stipulates that if the Department finds 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 adverse to the interests of that party in selecting from the facts otherwise available. See *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025–26 (September 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 (August 30, 2002). It is the Department's practice to apply adverse inferences to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully. See, e.g., *Certain Polyester Staple Fiber From Korea: Final Results of the 2005–2006 Antidumping Duty Administrative Review*, 72 FR 69663 (December 10, 2007). 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); and *Certain Polyester Staple Fiber from Korea: Final Results of the 2005–2006 Antidumping Duty Administrative Review*, 72 FR 69663 (December 10, 2007).

Although the Department provided Terpane with notice informing it of the consequences of its failure to fully

respond to sections A through E of our antidumping questionnaire, Terphane has withdrawn from this investigation and has failed to provide complete responses to the Department's requests for information. This constitutes a failure on the part of Terphane to cooperate to the best of its ability to comply with a request for information by the Department, pursuant to section 776(b) of the Tariff Act. Moreover, because Terphane has withdrawn from the proceeding and did not provide the information requested in our supplemental questionnaires of February 13, 2008, and February 29, 2008, the requirements of section 782(e) of the Tariff Act have not been satisfied.

Based on the above, the Department has preliminarily determined that Terphane has failed to cooperate to the best of its ability and, therefore, in selecting from among the facts otherwise available, an adverse inference is warranted. *See, e.g., Notice of Final Determination of Sales at Less than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000) (the Department applied total adverse facts available (AFA) where the respondent failed to respond to the antidumping questionnaire).

#### **Selection and Corroboration of Information Used as Facts Available**

Where the Department applies AFA because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Tariff Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record. *See* also 19 CFR 351.308(c) and the SAA at 829–831. It is the Department's practice to use the highest rate from the petition in an investigation when a respondent fails to act to the best of its ability to provide the necessary information and there are no other respondents. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Purified Carboxymethylcellulose From Finland*, 69 FR 77216 (December 27, 2004) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethylcellulose From Finland*, 70 FR 28279 (May 17, 2005)). Therefore, because an adverse inference is warranted, we have assigned to Terphane the highest margin alleged in the petition, as referenced in the *Initiation Notice*, or 44.36 percent. *See Initiation Notice* at 60806.

When using facts otherwise available, section 776(c) of the Tariff Act provides that where the Department relies on secondary information (such as the petition) rather than information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably at its disposal.

The SAA clarifies that “corroborate” means the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870. As stated in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996) (unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825, 11843 (March 13, 1997)), to corroborate secondary information, the Department will examine, to the extent practicable, the reliability and relevance of the information used. The Department's regulations state that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *See* 19 CFR 351.308(d) and the SAA at 870.

For the purposes of this investigation, to the extent appropriate information was available, we reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis and for purposes of this preliminary determination. *See Initiation Checklist* at pages 8 through 10. *See also Initiation Notice* at 60803 and 60806. We examined evidence supporting the calculations in the petition to determine the probative value of the margins alleged in the petition for use as AFA for purposes of this preliminary determination. During our pre-initiation analysis we examined the key elements of the constructed export price (CEP) and normal-value calculations used in the petition to derive margins. During our pre-initiation analysis we also examined information from various independent

sources provided either in the petition or in supplements to the petition that corroborates key elements of the constructed export price and normal-value calculations used in the petition to derive estimated margins. *Id.*

The petitioners calculated CEP from information regarding a representative sale of 48-gauge packaging film by Terphane to an unaffiliated customer in the United States. *See Initiation Checklist* at 6. Petitioners made deductions from CEP for a distributor mark up and for international freight and insurance, U.S. customs duties, inland freight from the U.S. warehouse to the U.S. customer and credit expenses. *Id.* at 6–7. We adjusted petitioner's calculation of the distributor mark-up to exclude certain charges covered in separate deductions from U.S. price (*i.e.* inland freight from the U.S. port to the distribution warehouse and brokerage charges. *Id.* at 6.

The petitioners based normal value on a sale of 48 gauge packaging film by Terphane to a customer in Brazil during the POI. *Id.* at 8. Petitioners made an adjustment to home market price for credit. *Id.* Based upon the Department's deficiency questions, petitioners revised their calculation of normal value by eliminating deductions from the home market price for advertising, slitting, and material losses. *Id.*

Petitioners also alleged that Terphane made sales below the home market below its cost of production. *Id.* Petitioners calculated constructed value (CV) as the cost of manufacture (COM); selling general and administrative expenses (SG&A) expenses; packing expenses, and profit. In calculating CV, we recalculated factory overhead based upon the financial statements of a Brazilian thermoplastic resin producer. (The resins manufactured by this Brazilian producer include PET film.) *Id.* at 9. Based upon the methodology described above, the estimated dumping margins for Brazil ranged from 13.08 percent (price-to price margin) to 44.36 percent (price-to CV margin). *Id.* at 10.

Based on our examination of the aforementioned information, we consider the petitioners' calculation of normal value based both upon a sale of 48 gauge packaging film by Terphane to a customer in Brazil and constructed value to be corroborated. Therefore, because we confirmed the accuracy and validity of the information underlying the derivation of margins in the petition by examining source documents as well as publicly available information, we preliminarily determine the margins in the petition are reliable for the purposes of this investigation.

In making a determination as to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin as "best information available" (the predecessor to "facts available") because the margin was based on another company's uncharacteristic business expense that resulted in an unusually high dumping margin.

In the pre-initiation stage of this investigation, we confirmed the calculation of margins in the Petition (e.g., prices, expenses, adjustments, etc.) reflects the commercial practices of the particular industry during the period of investigation. See Memorandum to the File, "Telephone Call to Market Research Firm," dated July 17, 2007. No information has been presented in the investigation that calls into question the relevance of this information. As such, and as established during our pre-initiation analysis, we preliminarily determine the highest margin in the petition was based on adequate and accurate information. Accordingly, we consider that highest margin corroborated for purposes of this preliminary determination. Therefore, it is relevant as the adverse facts-available rate for Terphane.

Similar to our position in *Polyethylene Retail Carrier Bags from Thailand: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 53405 (September 11, 2006) (unchanged in *Polyethylene Retail Carrier Bags from Thailand: Final Results of Antidumping Duty Administrative Review*, 72 FR 1982 (January 17, 2007)), because this is the first proceeding involving this company, we find there are no probative alternatives to the margins alleged in the petition. Accordingly, by using information that was corroborated in the pre-initiation stage of this investigation and preliminarily determining it to be relevant for the uncooperative respondents in this investigation, we have corroborated the adverse facts-available rate "to the extent practicable." See section 776(c) of the Tariff Act, 19 CFR 351.308(d). Therefore, we find that the estimated margin of 44.36 percent in the *Initiation*

*Notice* has probative value. Consequently, with respect to Terphane, we have applied the margin rate of 44.36 percent, the highest estimated dumping margin set forth in the notice of initiation. See *Initiation Notice* at 60806.

#### All-Others Rate:

Section 735(c)(5)(B) of the Tariff Act provides that, where the estimated weighted-averaged dumping margins established for all exporters and producers individually investigated are zero or *de minimis* or are determined entirely under section 776 of the Tariff Act, the Department may use any reasonable method to establish the estimated all-others rate for exporters and producers not individually investigated. Our recent practice under these circumstances has been to assign as the all-others rate the simple average of the margins in the petition. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Glycine from Japan*, 72 FR 67271, 67272 (November 28, 2007). See also *Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags From Malaysia*, 69 FR 34128, 34129 (June 18, 2004). Consistent with our practice we used the rates in the petition that were considered in the Department's initiation to calculate a simple average to be assigned as the all-others rate. That simple average, 28.72 percent, is derived from the following petition rates: 13.08 (price to price margin) and 44.36 percent (price to CV margin). This 28.72 percent rate will be applied to all Brazilian producers and exporters of PET film other than Terphane.

#### Preliminary Determination:

We preliminarily determine the following weighted-average dumping margins exist for the period April 1, 2006, through March 31, 2007:

| Producer/Exporter | Margin |
|-------------------|--------|
| Terphane .....    | 44.36  |
| All Others .....  | 28.72  |

#### Suspension of Liquidation:

In accordance with section 733(d)(2) of the Tariff Act, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of PET film from Brazil that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average

margins, as indicated in the chart above, as follows: (1) the rate for Terphane will be the rate we have determined in this preliminary determination; (2) if the exporter is not a firm identified in this investigation, but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 28.72 percent. These suspension-of-liquidation instructions will remain in effect until further notice.

#### Commission Notification:

In accordance with section 733(f) of the Tariff Act, we have notified the Commission of the Department's preliminary affirmative determination. If the Department's final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of PET film from Brazil are materially injuring, or threaten material injury to, the U.S. industry.

#### Public Comment:

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than fifty days after the date of publication of this notice. See 19 CFR 351.309(c)(1)(i). Rebuttal briefs, limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs. See 19 CFR 351.309(d)(1) and (2). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette.

In accordance with section 774 of the Tariff Act, the Department will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will be scheduled two days after the deadline for submitting rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date. Interested parties who wish to request a hearing, or to participate in a hearing if one is

requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, APO/Dockets, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. See 19 CFR 351.310(c). At the hearing oral presentations will be limited to issues raised in the briefs.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Tariff Act.

Dated: April 25, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E8-9846 Filed 5-2-08; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

(A-549-825)

#### Notice of Preliminary Determination of Sales at Not Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip from Thailand

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

**EFFECTIVE DATE:** May 5, 2008.

**SUMMARY:** The U.S. Department of Commerce (the Department) preliminarily determines that polyethylene terephthalate film, sheet, and strip (PET Film) from Thailand is not being, nor likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). Interested parties are invited to comment on this preliminary determination.

#### FOR FURTHER INFORMATION CONTACT:

Stephen Bailey or Angelica Mendoza, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0193, or (202) 482-3019, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On July 17, 2007, the Department initiated the antidumping duty investigation of PET Film from Thailand. *See Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Brazil, the People's Republic of China, Thailand, and the*

*United Arab Emirates: Initiation of Antidumping Duty Investigations*, 72 FR 60801 (October 26, 2007) (*Notice of Initiation*).

The Department set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Notice of Initiation*. *See Notice of Initiation*. On November 15, 2007, Avery Dennison Fasson Roll North America (Avery Dennison) requested that the Department find "release liner," a PET film product treated on one or both sides with a specially-cured silicon coating, is outside the scope of these investigations. Petitioners (DuPont Teijin Films, Mitsubishi Polyester Film of America, Inc., SKC, Inc. and Toray Plastics (America), Inc. (collectively, petitioners)) objected to Avery Dennison's request on November 29, 2007; petitioners re-submitted their objections with amended bracketing on December 14, 2007, and the document was accepted for the record on that date.

On August 28, 2007, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of PET Film from Brazil, China, Thailand, and the United Arab Emirates (UAE) are materially injuring the U.S. industry and the ITC notified the Department of its findings. *See Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, China, Thailand, and the United Arab Emirates Case Number: 731-TA-1131-1134*, 72 FR 67756, (November 30, 2007) (*Preliminary ITC Determination*).

Polyplex (Thailand) Public Company Ltd. (Polyplex Thailand) and Polyplex (Americas) Inc. (PA) (collectively Polyplex) was issued an antidumping duty questionnaire on November 29, 2007. The Department received the Section A response from Polyplex on January 4, 2008 (AQR), and received the Sections B and C responses from Polyplex on January 18, 2008 (BCQR).

On January 23, 2008, petitioners requested that the Department postpone the preliminary determination by 50 days. The Department published an extension notice on February 11, 2008, which set the new deadline for the preliminary determination at April 25, 2008. *See Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 73 FR 7710 (February 11, 2008).

Petitioners filed comments on Polyplex's Sections A, B and C

responses on February 13, 2008. The Department issued a supplemental questionnaire regarding Polyplex's Sections A, B and C responses on February 19, 2008. Also on February 19, 2008, based on a timely allegation filed by petitioners on February 6, 2008, the Department initiated a sales-below-cost investigation for Polyplex, finding reasonable grounds to believe that Polyplex made comparison market sales of PET Film at prices below its cost of production (COP). *See "Sales Below Cost of Production"* section below for further information. Consequently, the Department requested that Polyplex respond to Section D of the Department's antidumping duty questionnaire. We received Polyplex's Section D response on March 11, 2008.

On March 12, 2008, Polyplex filed its response to the Department's supplemental questionnaire regarding Sections A-C (SABCQR). Additionally on March 12, 2008, a U.S. customer of Polyplex filed a response to Department questions regarding this U.S. customer's relationship with Polyplex Thailand.

On March 14, 2008, the Department requested a SAS version of Polyplex's comparison market, United States market, and cost datasets submitted with its SABCQR, which Polyplex did on March 17, 2008. *See the Department's March 17, 2008, Memorandum to the File.*

On March 21, 2008, petitioners filed a targeted dumping allegation on sales made by Polyplex in the U.S., and also filed section D comments. On March 24, 2008, the Department issued a section D supplemental questionnaire to Polyplex. On March 31, 2008, Polyplex filed comments on petitioners' targeted dumping allegation.

The Department issued a second supplemental questionnaire to Polyplex concerning the company's Sections A, B, C, and D responses and information regarding the value added to PET Film by one U.S. customer on April 1, 2008.

On April 7, 2008, the Department issued a memorandum in which it determined that Polyplex Thailand was affiliated with one of Polyplex Thailand's U.S. customers that produces non-subject merchandise using PET Film. *See Affiliation* section below. Because the name of this customer is proprietary we will refer to it here as "Company A."

In light of our finding of affiliation, on April 7, 2008, the Department requested that Polyplex Thailand and Company A respond to Section E (Cost of Further Manufacture or Assembly Performed in the United States) of the Department's November 29, 2007, antidumping questionnaire in regard to the PET Film