

CFR 766.24(b). The Temporary Denial Order may be issued against a respondent and any "related persons." 15 CFR 766.23(a) and 766.24(c). The term "related persons" is defined as "persons then or thereafter related to the respondent by ownership, control, position of responsibility, affiliation or other connection in the conduct of trade or business." 15 CFR 766.23(a). "Person" is defined in the EAA as any individual, partnership, corporation, or other form of association. 50 U.S.C. App. sec. 2415(1).

In these proceedings, a "related person" may file an appeal with the administrative law judge. 15 CFR 766.23(c). The sole issues to be decided on appeal by the administrative law judge are: (a) Whether the person(s) is related to the respondent; and (b) whether the order is justified in order to prevent evasion. *Id.*

The facts in this case establish that Tetrabal and Ihsan Elashi are related persons within the meaning of 15 CFR 766.23(a) and the Temporary Denial Order is justified in order to prevent evasion.

#### *I. Tetrabal Corporation and Ihsan Elashi Are Related Persons to Infocom*

The Appellants' argument that Tetrabal Corporation and Ihsan Elashi are separate entities and there is no relationship with Infocom is rejected. The Temporary Denial Order and the documentary evidence submitted by BXA on appeal clearly establish an intimate business relationship between Infocom, Tetrabal Corporation, and Mr. Ihsan Elashi. Tetrabal Corporation and Mr. Ihsan Elashi are affiliated or interconnected with Infocom.

Mr. Bayan Elashi incorporated Infocom on March 16, 1992 and employed his brother, Ihsan Elashi to serve as the Systems Consultant. Mr. Ihsan Elashi worked for Infocom well into 2000 and represented Infocom until well after the issuance of the Temporary Denial Order on September 7, 2001. There is no evidence to support a finding that Mr. Ihsan Elashi was a mere employee.

To the contrary, Mr. Ihsan Elashi was very active in Infocom's business. For instance, in March of 1997, Mr. Ihsan Elashi directly participated in the illegal and fraudulent sale and export of computer equipment to Libya, through Malta, without first obtaining the required BXA export license. He also used his home address on preprinted Federal Express shipping labels for Infocom and regularly accepted shipment of goods to his home address on behalf of Infocom.

Furthermore, after Ihsan Elashi incorporated Tetrabal Corp. on July 20, 2000, he continued to maintain an intimate business relationship with Infocom. Infocom and Tetrabal both shared use of Mr. Ihsan Elashi's home address for shipment and other purposes. The two companies maintain common computer vendors and customers. In addition, Tetrabal has sold computer components and equipment to Infocom on at least three occasions. Moreover, on September 28, 2001, Mr. Ihsan Elashi provided a written statement to Ingram Micro, Inc. indicating that he represents Infocom, Tetrabal, and all related persons identified in the Temporary Denial Order.

There is no evidence that the statement in the September 28, 2001 letter was made under duress or that Mr. Ihsan Elashi was otherwise forced to make the statement. The mere fact that Ingram Micro, Inc. drafted the September 28, 2001 letter that was provided to Mr. Ihsan Elashi by electronic mail for signature is, by itself, insufficient to establish duress.

#### *II. The Temporary Denial Order Is Justified*

BXA has established that the Temporary Denial Order is justified. BXA procedural regulations provide that a Temporary Denial Order may be issued to prevent an "imminent" violation of export laws, regulations, or any order, license, or authorization issued thereunder. 15 CFR 766.24(b)(1). The procedural regulations provide:

A violation may be "imminent" in either time or in degree of likelihood. To establish grounds for the temporary denial order, BXA may show either that a violation is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations. To indicate the likelihood of future violations, BXA may show that the violation under investigation or charges is significant, deliberate, covert and/or likely to occur again, and that it is appropriate to give notice to companies in the United States and abroad to cease dealing with the person \* \* \* in order to reduce the likelihood that a [the] person continues to export \* \* \* (U.S.-origin) items, risking subsequent disposition contrary to export control requirements.

15 CFR 766.24(b)(3).

In this case, BXA has established that because of the deliberate and covert nature of the Appellants' actions, there exists a likelihood of future violations. The record shows that Infocom has recently focused its business efforts on being an Internet service provider while Mr. Ihsan Elashi and Tetrabal maintains the computer sales business. The

purpose of the regulations that authorize the issuance of Temporary Denial Orders against related persons is to prevent respondents from evading the order by using an alter ego to conduct and continue exporting goods and other items. The record shows that Mr. Ihsan Elashi and Tetrabal have a propensity to commit future violations of the export regulations. As a matter of fact, on September 22, 2001, Mr. Ihsan Elashi, doing business as Tetrabal, violated the Temporary Denial Order, issued several weeks earlier, by exporting 82 personal computers to Saudi Arabia and undervaluing the goods on the SED. This most recent violation lends further justification for the Temporary Denial Order.

#### **(VI) Conclusion**

For the reasons stated above, I recommend that the appeal filed by Tetrabal Corporation and Ihsan Medhat "Sammy" Elashi be *Denied*, and the Temporary Denial Order issued by the Secretary be *Affirmed*.

Done and dated this 2nd day of November 2001, Baltimore, Maryland.

**Joseph N. Ingolia,**

*Chief Administrative Law Judge, United States Coast Guard.*

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**BILLING CODE 3510-JT-M**

## **DEPARTMENT OF COMMERCE**

### **International Trade Administration**

**[A-570-866]**

#### **Notice of Final Determination of Sales at Less Than Fair Value: Certain Folding Gift Boxes From the People's Republic of China**

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

**ACTION:** Notice of final determination of sales at less than fair value.

**SUMMARY:** On August 6, 2001, the Department of Commerce (the Department) published the preliminary results of its investigation of certain folding gift boxes from the People's Republic of China. On August 17, 2001, we published amended preliminary results to correct ministerial errors and we postponed our final determination. The products covered by this investigation are certain folding gift boxes. The period of investigation is July 1, 2000, through December 31, 2000.

Based on our analysis of comments received and information obtained during verification, we have made

changes to the margin calculations. Therefore, the final results differ from the preliminary results.

**EFFECTIVE DATE:** November 20, 2001.

**FOR FURTHER INFORMATION CONTACT:**

Thomas Schauer or George Callen, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0410 and (202) 482-0180, respectively.

**The Applicable Statute and Regulations**

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the provisions codified at 19 CFR part 351 (2000).

**Final Determination**

We determine that certain folding gift boxes (gift boxes) from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the "Final Margin" section of this notice.

**Scope of the Investigation**

The products covered by this investigation are certain folding gift boxes. Certain folding gift boxes are a type of folding or knock-down carton manufactured from paper or paperboard. Certain folding gift boxes are produced from a variety of recycled and virgin paper or paperboard materials, including, but not limited to, clay-coated paper or paperboard and kraft (bleached or unbleached) paper or paperboard. The scope of the investigation excludes gift boxes manufactured from paper or paperboard of a thickness of more than 0.8 millimeters, corrugated paperboard, or paper mache. The scope of the investigation also excludes those gift boxes for which no side of the box, when assembled, is at least nine inches in length.

Certain folding gift boxes are typically decorated with a holiday motif using various processes, including printing, embossing, debossing, and foil stamping, but may also be plain white or printed with a single color. The subject merchandise includes certain folding gift boxes, with or without handles, whether finished or

unfinished, and whether in one-piece or multi-piece configuration. One-piece gift boxes are die-cut or otherwise formed so that the top, bottom, and sides form a single, contiguous unit. Two-piece gift boxes are those with a folded bottom and a folded top as separate pieces. Certain folding gift boxes are generally packaged in shrink-wrap, cellophane, or other packaging materials, in single or multi-box packs for sale to the retail customer. The scope of the investigation excludes folding gift boxes that have a retailer's name, logo, trademark or similar company information printed prominently on the box's top exterior (such folding gift boxes are often known as "not-for-resale" gift boxes or "give-away" gift boxes and may be provided by department and specialty stores at no charge to their retail customers). The scope of the investigation also excludes folding gift boxes where both the outside of the box is a single color and the box is not packaged in shrink-wrap, cellophane, other resin-based packaging films, or paperboard.

Imports of the subject merchandise are currently classified under *Harmonized Tariff Schedule of the United States* (HTSUS) subheadings 4819.20.00.40 and 4819.50.40.60. These subheadings also cover products that are outside the scope of this investigation. Furthermore, although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

**Background**

We published in the **Federal Register** the preliminary determination in this investigation on August 6, 2001. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Folding Gift Boxes From the People's Republic of China*, 66 FR 40937 (August 6, 2001) (*Preliminary Determination*). Since the publication of the *Preliminary Determination*, the following events have occurred.

On August 6, 2001, Max Fortune Industrial Ltd. (Max Fortune) and Red Point Paper Products Co., Ltd. (Red Point), respondents in this investigation, requested that the Department correct ministerial errors they found in their margin calculations. On August 17, 2001, the Department determined that the ministerial errors alleged by the respondents constituted significant ministerial errors within the meaning of 19 CFR 351.224(g)(1) and we made the suggested corrections to these companies' margins. Therefore, we published in the **Federal Register** our amended preliminary determination in

this investigation on August 17, 2001. See *Notice of Amended Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Folding Gift Boxes From the People's Republic of China*, 66 FR 43181 (August 17, 2001).

On August 8, 2001, Red Point requested that the Department postpone its final determination until November 12, 2001 (which is not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register**), and requested an extension of the provisional measures. In accordance with 19 CFR 351.210(b)(2)(ii), because (1) our preliminary determination was affirmative; (2) the respondent requesting the postponement accounted for a significant proportion of exports of the subject merchandise (see Memorandum from Laurie Parkhill to Richard W. Moreland dated May 1, 2001); and (3) no compelling reasons for denial existed, we granted the respondent's request and postponed the final determination. Because November 12, 2001, is a federal holiday, we postponed the final determination until November 13, 2001.

On August 13 through 17, 2001, the Department conducted a U.S. sales data and factors-of-production (FOP) data verification of Max Fortune. See Max Fortune verification report dated September 19, 2001. On August 20 through 23, 2001, the Department conducted a U.S. sales data and FOP data verification of Red Point. See Red Point verification report dated September 13, 2001. On September 10, 2001, the Department conducted a U.S. sales data verification of The Lindy Bowman Company (Lindy Bowman), a U.S. reseller of merchandise produced by Red Point. See Lindy Bowman verification report dated September 17, 2001.

On September 17, 2001, Max Fortune submitted additional surrogate-value data.

On October 2, 2001, the petitioners and Red Point submitted their case briefs with respect to the sales and FOP verifications and the *Preliminary Determination*. On October 9, 2001, the petitioners and respondents submitted rebuttal briefs with respect to the sales and FOP verification and the *Preliminary Determination*. No parties requested a hearing.

**Period of Investigation**

The period of investigation is July 1, 2000, through December 31, 2000.

### Non-Market Economy

The Department has treated the PRC as a non-market economy (NME) country in all its past antidumping investigations. See *Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China*, 65 FR 33805 (May 25, 2000), and *Final Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars From the People's Republic of China*, 66 FR 33522 (June 22, 2001). A designation as an NME country remains in effect until it is revoked by the Department. See section 771(18)(C) of the Act. The respondents in this investigation have not requested a revocation of the PRC's NME status. Therefore, we have continued to treat the PRC as an NME in this investigation. For further details, see the *Preliminary Determination*.

### Separate Rates

In our *Preliminary Determination*, we found that Max Fortune and Red Point had met the criteria for the application of separate antidumping duty rates. We saw at verification that both companies are Hong Kong companies. We have not received any other information since the *Preliminary Determination* which would warrant reconsideration of our separate rates determination with respect to the respondents. Therefore, we continue to find that Max Fortune and Red Point should be assigned individual dumping margins. For a complete discussion of the Department's determination that the respondents are entitled to separate rates, see the *Preliminary Determination*, 66 FR at 40975.

### Surrogate Country

As we found in the *Preliminary Determination*, for purposes of the final determination, we continue to find that India remains the appropriate primary surrogate country for the PRC. For further discussion and analysis regarding the surrogate country selection for the PRC, see the *Preliminary Determination*.

### Use of Facts Available

We have continued to use adverse facts available in our calculation of the PRC-wide rate. We have not changed this rate since the *Preliminary Determination*. See the *Preliminary Determination*, 66 FR at 40975. In the *Preliminary Determination*, we determined that the application of total adverse facts available (AFA) was appropriate with respect to the PRC-wide entity, as this entity failed to respond to our antidumping questionnaire. As AFA, we applied a

margin rate of 164.75 percent, the highest margin alleged in the petition, which we adjusted to account for the fact that we used India as the surrogate country (the petition used Indonesia). We corroborated the petition information to the extent possible. See the memorandum to the file entitled *Corroboration of Facts Available*, dated July 30, 2001. The interested parties did not object to the use of AFA for the PRC-wide entity, or to our choice of facts available, and no new facts were submitted which would cause us to reconsider this decision. Therefore, for the reasons set out in the *Preliminary Determination*, we have continued to use the highest margin alleged in the petition, as adjusted, for the purposes of this final determination notice.

### Analysis of Comments Received

All issues raised in the case briefs by parties to this investigation are addressed in the Decision Memorandum, which is hereby adopted by this notice. See the Certain Folding Gift Boxes from the PRC Issues and Decision Memorandum dated November 13, 2001 (the Decision Memorandum). A list of the issues which parties raised, and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in B-099. In addition, a complete version of the Decision Memorandum can be accessed directly on the internet at [ia.ita.doc.gov](http://ia.ita.doc.gov). The paper copy and electronic version of the Decision Memorandum are identical in content.

### Changes Since the Preliminary Determination

Based on our findings at verification and our analysis of comments received, we have made adjustments to the calculation methodology in calculating the final dumping margins for Max Fortune and Red Point in this proceeding. See Final Analysis Memoranda for Max Fortune and Red Point dated November 13, 2001. These revisions are:

#### Red Point

1. We used the U.S. sales database that Red Point presented at the start of verification which incorporates its pre-verification corrections.
2. We deducted the declaration fees that Red Point incurred on U.S. sales.
3. We used the FOP database that Red Point presented at the start of verification which incorporates its pre-

verification corrections. Because Red Point did not include the usage for plastic tabs for certain models in its database, we included the usages we verified for these models.

4. We recalculated Red Point's glue usage to account for beginning inventory in Red Point's calculation of usage of glue.

5. We recalculated Red Point's shrink-wrap usage to account for beginning inventory in Red Point's calculation of usage of shrink wrap.

6. We revised Red Point's per-piece shrink-wrap weights to accord with the weights we verified.

7. We revised Red Point's reported carton usage to accord with the usage we verified.

8. We converted Red Point's reported tape usage from a per-meter to a per-kilogram basis using a conversion factor based on information in the Red Point verification report dated September 13, 2001, at page 12.

9. We revised Red Point's reported market-economy input costs to accord with the costs we verified.

10. We revised Red Point's electricity usage calculation to include the electricity for the foil-stamping or pre-cutting processes.

11. We revised Red Point's labor usage calculation to accord with the labor hours we verified.

12. We have recalculated the surrogate value for electricity for Red Point.

#### Max Fortune

1. We used the U.S. sales database that Max Fortune submitted August 8, 2001.

2. We included an unreported billing adjustment for one invoice that we found at verification.

3. We found at verification that Max Fortune reported out-of-scope boxes, all of which are printed with the retailer's name. We have removed all sales of such boxes from Max Fortune's U.S. sales database.

4. We found at verification that Max Fortune allocated its movement expenses by dividing the expense by the standard weight and multiplying this number by the actual weight reported in the response for each observation. We corrected this by dividing the reported movement expenses by the reported actual weight and multiplying it by the standard weight for the model.

5. We found at verification that the sum of per-unit weight and per-unit scrap for each model of boxes incorporating duplex board exceeded the per-unit usage of those models. We corrected this by reallocating the scrap

offset to take into account the relative scrap generated by each model.

6. We found at verification that Max Fortune incorrectly reported that it did not incur freight expenses for inputs of glue. We included this freight expense when valuing the glue inputs.

7. We revised the value of Max Fortune's market-economy inputs pursuant to the corrections Max Fortune provided at the start of verification.

#### Verification

As provided in section 782(i) of the Act, we verified the information submitted by each respondent for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondents. For changes from the *Preliminary Determination*, as a result of verification, see the "Changes Since the Preliminary Determination" section of this notice, above, and Max Fortune's and Red Point's Analysis Memoranda dated November 13, 2001.

#### Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B)(ii) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of subject merchandise from the PRC, except for subject merchandise produced and exported by Max Fortune (which has a de minimis weighted-average margin), that are entered, or withdrawn from warehouses, for consumption on or after the date of publication of the final determination in the **Federal Register**. The Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. This suspension of liquidation instruction will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average percent margin
Red Point Paper Products Co., Ltd .....	9.26
Max Fortune Industrial Ltd .....	1.67
PRC-wide Rate .....	164.75

The PRC-wide rate applies to all entries of the subject merchandise except for entries from exporters/producers that are identified individually above.

#### ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or a threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: November 13, 2001.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

#### Appendix

I. Changes From the Preliminary Determination

II. Company Specific Issues

Comment 1: Use of Facts Available for Max Fortune

Comment 2: Use of Facts Available for Red Point

Comment 3: Red Point Paperboard Prices

Comment 4: Red Point and Lindy Bowman Affiliation

Comment 5: Red Point Selling, General, and Administrative Expenses and Profit

Comment 6: Red Point Electricity Valuation

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#### DEPARTMENT OF COMMERCE

##### International Trade Administration

[A-351-806]

#### Silicon Metal From Brazil: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review

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

**EFFECTIVE DATE:** November 20, 2001.

#### FOR FURTHER INFORMATION CONTACT:

Maisha Cryor or Ronald Trentham, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and

Constitution Avenue, N.W., Washington, DC 20230; (202) 482-5831 and (202) 482-6320, respectively.

#### Information

##### Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department of Commerce (the Department) to make a preliminary determination within 245 days after the last day of the anniversary month of an order/finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days and for the final determination to 180 days (or 300 days if the Department does not extend the time limit for the preliminary determination) from the date of publication of the preliminary determination.

##### Background

On September 6, 2000, the Department published a notice of initiation of an administrative review of the antidumping duty order on Silicon Metal from Brazil covering the period July 1, 1999 through June 30, 2000 (65 FR 53980). On August 6, 2001 (66 FR 40980), we published the preliminary results of review. In our notice of preliminary results, we stated our intention to issue the final results of this review no later than 120 days after the date of publication of the preliminary results, December 4, 2001.

##### Extension of Final Results of Review

We determine that it is not practicable to complete the final results of this review within the original time limit. See Decision Memorandum regarding this extension from Holly A. Kuga to Bernard T. Carreau, dated concurrently with this notice, which is on file in the Central Records Unit, Room B-099 of the main Commerce Building. Therefore, the Department is extending the time limit for completion of the final results until no later than February 2, 2002.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: November 11, 2001.

**Bernard T. Carreau,**

*Deputy Assistant Secretary for Import Administration, Group II.*

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