

Exporter/manufacturer	Original weighted-average margin percentage	Revised weighted-average margin percentage
Feili Furniture Development Co., Ltd. and Feili (Fujian) Co., Ltd .....	23.48	13.72
Dongguan Shichang Metals Factory Co. Ltd .....	23.48	13.72
New-Tec Integration Co., Ltd .....	23.48	13.72
Shin Crest Pte. Ltd .....	00.00	00.00
All Others .....	70.71	70.71

### Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the U.S. Customs Service ("Customs") to continue to suspend liquidation of all imports of folding metal tables and chairs from the PRC, except for subject merchandise produced by Shin Crest (which has a weighted-average margin of zero). Customs shall require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price, as indicated in the chart above. These suspension of liquidation instructions will remain in effect until further notice.

### ITC Notification

In accordance with section 735(d) of the Tariff Act, we have notified the International Trade Commission of our amended final determination.

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

Dated: May 10, 2002.

**Bernard T. Carreau,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. 02-12296 Filed 5-16-02; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-533-824]

### Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip From India

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

**EFFECTIVE DATE:** May 16, 2002.

#### FOR FURTHER INFORMATION CONTACT:

Timothy Finn, Zev Primor, or Howard Smith at (202) 482-0065, (202) 482-4114, and (202) 482-5193, respectively; AD/CVD Enforcement, Office 4, Group II, Import Administration, Room 1870, International Trade Administration,

U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

#### The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to Department of Commerce (the Department) regulations are to 19 CFR part 351 (April 2001).

#### Final Determination

We determine that polyethylene terephthalate film, sheet, and strip (PET film) from India are being sold, 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 margin of sales at LTFV is shown in the *Suspension of Liquidation* section of this notice.

#### Case History

On December 21, 2001, the Department published the preliminary determination of the antidumping duty investigation of PET film from India. *See Polyethylene Terephthalate Film, Sheet, and Strip from India; Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 66 FR 65893 (December 21, 2001) (*Preliminary Determination*). For the respondent, Polyplex Corporation Limited (Polyplex) we issued and received an additional supplemental questionnaire pertaining to further manufacturing in January. We conducted a verification of the questionnaire responses of the respondent, Ester Industries Limited (Ester) during the weeks of January 7, 2002 and January 14, 2002, and Polyplex during the weeks of February 11, 2002, and February 18, 2002. Further, we conducted a verification of the questionnaire responses of Ester's U.S. affiliate, Ester International (USA) Limited (EIUL), during the week of February 25, 2002, and Polyplex's U.S.

affiliates, Spectrum Marketing Company Incorporated (Spectrum) and Company A during the week of March 4, 2002. *See Affiliation of Parties below.* We gave interested parties an opportunity to comment on our *Preliminary Determination* and our findings at verification. On April 10, 2002, both respondents, and on April 11, 2002, the petitioners,<sup>1</sup> submitted case briefs. On April 15, 2002, all parties submitted rebuttal briefs. The Department received requests for a public hearing from both petitioners and respondents; and a public hearing was held on April 17, 2002.

In addition, on December 28, 2001, respondents and two other Indian producers, Flex Industries Limited (Flex) and Jindal Polyester Ltd. (Jindal), submitted a proposal for a suspension agreement in this investigation. Subsequently, on January 22, 2002, we met with counsel for Ester, Flex, Jindal, and Polyplex to discuss this proposal, but no agreement resulted from this meeting. For further details, *see Memorandum to the File* dated May 6, 2002 on proposed suspension agreement.

The Department has conducted this investigation in accordance with section 731 of the Act.

#### Scope of Investigation

For purposes of these investigations, the products covered are all gauges of raw, pretreated, or primed PET film, whether extruded or coextruded. Excluded are metallized 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 of more than 0.00001 inches thick. Imports of PET film are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

<sup>1</sup> The petitioners in this investigation are Dupont Teijin Films of Mitsubishi Polyester Film of America and Toray Plastics (America) (collectively the petitioners).

### Period of Investigation

The period of investigation (POI) is April 1, 2000, through March 31, 2001.

### Affiliation of Parties

Pursuant to section 771(33)(F) of the Act, the Department preliminarily determined that two customers to whom Polyplex sold PET film during the POI and whom Polyplex identified as unaffiliated parties are, in fact, affiliated with Polyplex. Specifically, the Department has determined that one U.S. customer and one home market customer (hereinafter referred to as Company A and Company B, respectively) are part of a corporate grouping which, together with Polyplex, controls another person. According to section 771(33)(F) of the Act, two or more persons directly or indirectly controlling any other person shall be considered affiliated. Thus, we preliminarily found the corporate grouping, including companies A and B, to be affiliated with Polyplex. The parties did not contest this determination and we have continued to treat Company A and Company B as affiliated parties for purposes of the final determination.

### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the "Issues and Decision Memorandum" (*Decision Memorandum*), dated May 6, 2002, which is hereby adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B-099 (B-099) of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at <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 analysis of comments received, we have made adjustments to the preliminary determination calculation methodologies in calculating the final dumping margins in this proceeding. These adjustments are discussed in detail in the *Decision Memorandum* and are listed below:

#### Ester

(1) We recalculated imputed credit expenses for constructed export price (CEP) sales using short-term borrowing costs Ester experienced during the POI. See Calculation Memorandum of the Final Determination of the Investigation of Ester Industries Ltd., dated May 6, 2002 (Ester Calculation Memorandum) and the *Decision Memorandum* at comment 8.

(2) We recalculated U.S. inventory carrying costs for CEP sales using short-term borrowing costs Ester experienced during the POI. Additionally, during the POI, Ester's wholly owned U.S. sales affiliate, EIUL incurred interest expenses on factored receivables in the currency of the EP transactions. Consequently, for the final determination, we have used EIUL's interest rate to calculate credit expenses on Ester's EP sales. See Ester Calculation Memorandum and the *Decision Memorandum* at comment 8.

(3) We adjusted Ester's reported raw material cost to allow only the amount of export incentive benefits used to offset import duties on purchased inputs. See Ester Calculation Memorandum and *Decision Memorandum* at comment 3.

(4) In the model match methodology, we modified our selection of certain most similar products. See Ester Calculation Memorandum.

(5) We made minor corrections pursuant to the verification. See Ester Calculation Memorandum.

(6) Consistent with our practice, we adjusted the antidumping duty cash deposits for the export subsidies found in the companion countervailing investigation rather than adjusting net U.S. price. See *Decision Memorandum* at comment 2.

#### Polyplex

(1) We recalculated U.S. inventory carrying costs and U.S. imputed credit expenses for CEP sales using the average short-term interest rate, as published by the Federal Reserve. See Calculation Memorandum of the Final Determination of the Investigation of Polyplex Corporation Limited dated May 6, 2002 (Polyplex Calculation Memorandum) and *Decision Memorandum* at comment 16.

(2) We recalculated U.S. warehousing costs and U.S. indirect selling expenses for CEP sales in order to reflect arm's-length costs.

(3) We adjusted Polyplex's reported raw material cost to allow only the amount of export incentive benefits used to offset import duties on purchased inputs. See Polyplex

Calculation Memorandum and *Decision Memorandum* at comment 3.

(4) We revised several U.S. selling expenses to reflect findings from verification. See Polyplex Calculation Memorandum.

(5) We modified the calculation of imputed credit in the home market and U.S. market to include the variables for recovered interest payments and interest revenue earned. See Polyplex Calculation Memorandum.

(6) In the model match methodology, we modified our selection of certain most similar products. See Polyplex Calculation Memorandum.

(7) We made minor corrections pursuant to the verification. See Polyplex Calculation Memorandum.

(8) Consistent with our practice, we adjusted the antidumping duty cash deposits for the export subsidies found in the companion countervailing investigation rather than adjusting net U.S. price. See *Decision Memorandum* at comment 2.

### Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondents 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 respondent.

### Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we are instructing the U.S. Customs Service (Customs Service) to continue to suspend liquidation of all entries of PET Film from India that are entered, or withdrawn from warehouse, for consumption on or after December 21, 2001 (the date of publication of the *Preliminary Determination in the Federal Register*) for Ester, and those companies which received the "all others" rate.

In the companion countervailing duty investigation we have found the existence of export subsidies with respect to both Polyplex and Ester. Section 772(c)(1)(C) of the Act directs the Department to increase EP or CEP by the amount of the countervailing duty "imposed" on the subject merchandise "to offset an export subsidy" in an administrative review. The basic economic theory underlying this provision is that in parallel antidumping and countervailing duty investigations, if the Department finds that a respondent received the benefits of an export subsidy program, it is presumed the subsidy contributed to lower-priced sales of subject

merchandise in the United States market by the amount of any such export subsidy. Thus, the subsidy and dumping are presumed to be related, and the assessment of duties against both would in effect be "double-application" or imposing two duties against the same situation. Therefore, Congress, through section 772(c)(1)(C) of the Act, indicated that the Department should factor the subsidy into the antidumping calculations to prevent this "double-application" of duties.

We believe the economic theory implicit in section 772(c)(1)(C) of the Act should also generally apply to our cash deposit calculations in an investigation. The calculations underlying cash deposit rates resulting from an initial investigation are essentially equivalent to those determined in administrative reviews leading to the assessment of antidumping duties. Congress has indicated, in effect, that no dumping exists if the export subsidies calculated in a countervailing duty proceeding are equal to or greater than the calculated dumping margin. The Department believes that this is true regardless if such a result appears in an administrative review or in an investigation. Therefore, an affirmative dumping determination accompanied by Customs instructions which call for the suspension of liquidation and the collection of zero cash deposit rates would be inconsistent with the logic and intent of the law. If the Department's calculations in an investigation result in a zero cash deposit rate, then in reality, there exists no dumping upon which an affirmative determination could be based as to that particular respondent.

The Department has determined in its *Final Affirmative Countervailing Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip from India* (issued concurrently) that the product under investigation benefitted from export subsidies. Consistent with our longstanding practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct the Customs Service to require a cash deposit or posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price, as indicated below, minus the amount of the countervailing duty determined to offset an export subsidy. *See, e.g., Notice of Antidumping Duty Order: Stainless Steel Wire Rod From Italy*, 63 FR 49327 (September 15, 1998). Accordingly, for cash deposit purposes we are subtracting from Ester's and

Polyplex's cash deposit rates that portion of the rate attributable to the export subsidies found in the affirmative countervailing duty determination for both respondents (*i.e.*, 18.43 percent and 18.66 percent, respectively). After the adjustment for the cash deposit rate attributed to export subsidies, the resulting cash deposit rate for Polyplex is zero while the rate for Ester is 5.68 percent.

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of subject merchandise (except for merchandise produced and exported by Polyplex) entered, or withdrawn from warehouse, for consumption on or after December 21, 2001, the date of publication of the preliminary determination in the **Federal Register**. We will instruct the Customs Service to continue to require a cash deposit or the posting of a bond for each entry equal to the weighted-average amount by which the normal value exceeds the export price, adjusted for the export subsidy rate, as indicated below, except for Polyplex. Because the estimated cash deposit rate for Polyplex is zero, we are directing the Customs Service not to suspend liquidation of entries of this merchandise produced and exported by this company. These suspension of liquidation instructions will remain in effect until further notice. We determine that the following weighted-average dumping margins exist for the period April 1, 2000 through March 31, 2001:

Manufacturer/exporter	Margin (percent)
Ester Industries Limited .....	24.11
Polyplex Corporation Limited ...	(2)
All Others .....	24.11

<sup>2</sup> The Department calculated a weighted-average dumping margin of 10.34 percent for Polyplex before adjusting the margin for export subsidies for which the Department determined to impose countervailing duties, if a CVD order is issued. However, as discussed above, because the rate for Polyplex is zero after adjusting the dumping margin for the export subsidies in the companion affirmative countervailing duty investigation, Polyplex will be excluded from the antidumping duty order, if an order is issued in this proceeding.

#### 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 determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or

threat of 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 order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered or withdrawn from warehouse for consumption on or after the effective date of the suspension of liquidation.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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

Dated: May 6, 2002.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

#### Appendix—Issues in Decision Memorandum

##### Common Issues

1. Adjustment to U.S. Price for Countervailing Duties
2. Antidumping Duty Order with No Cash Deposit, Bond or Security
3. Adjustment to Cost of Production (COP) for Duty Entitlement Passbook Scheme (DEPB) Benefits
4. Negative Dumping Margins
5. Model Matching Similar Films

##### Company-Specific

###### *Ester Industries Limited*

6. Failure to Provide Product-Specific Costs
7. General and Administrative Expense and Interest Expense
8. Interest Rates Used to Calculate Imputed Credit Expenses for Constructed Export Price (CEP) Transactions
9. Interest Rates used to Calculate Imputed Credit Expenses for Export Price (EP) Transactions
10. Unreconciled Quantities Classified As Slitting Loss
11. Verification Corrections

###### *Polyplex Corporation Limited*

12. Whether to Apply Adverse Facts Available (AFA) for Polyplex's Sales to US1/US2
13. Application of the Special Rule
14. Whether to Apply AFA for CEP Expenses and Sales
15. Failure to Provide Product Specific Costs
16. Credit Expenses and Inventory Carrying Costs for CEP Sales

## 17. Verification Corrections

[FR Doc. 02-12295 Filed 5-15-02; 8:45 am]

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## DEPARTMENT OF COMMERCE

## International Trade Administration

**Department of Health and Human Services, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes**

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Suite 4100W, Franklin Court Building, U.S. Department of Commerce, 1099 14th Street, NW., Washington, DC.

*Docket Number:* 02-008. *Applicant:* Department of Health and Human Services, Atlanta, GA 30333.

*Instrument:* Electron Microscope, Model Tecnai 12 TWIN. *Manufacturer:* FEI Company, The Netherlands. *Intended Use:* See notice at 67 FR 17407, April 10, 2002. *Order Date:* July 12, 2001.

*Docket Number:* 02-010. *Applicant:* University of New Mexico, Albuquerque, NM 87131-5226. *Instrument:* Electron Microscope, Model H-7500-1. *Manufacturer:* Hitachi Ltd., Japan. *Intended Use:* See notice at 67 FR 18863, April 17, 2002. *Order Date:* August 13, 2001.

*Comments:* None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered. *Reasons:* Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of each instrument.

**Gerald A. Zerdy,**

*Program Manager, Statutory Import Programs Staff.*

[FR Doc. 02-12300 Filed 5-15-02; 8:45 am]

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## DEPARTMENT OF COMMERCE

## International Trade Administration

**National Institutes of Health—Bethesda, MD; Notice of Decision on Application for Duty-Free Entry of Electron Microscope**

This is a decision pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW., Washington, DC.

*Docket Number:* 02-007. *Applicant:* National Institutes of Health, Bethesda, MD 20892-2717. *Instrument:* Electron Microscope, Model Tecnai 30 He. *Manufacturer:* FEI Company, The Netherlands. *Intended Use:* See notice at 67 FR 15794, April 3, 2002. *Order Date:* June 28, 2001.

*Comments:* None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as the instrument is intended to be used, was being manufactured in the United States at the time the instrument was ordered. *Reasons:* The foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of the instrument.

**Gerald A. Zerdy,**

*Program Manager, Statutory Import Programs Staff.*

[FR Doc. 02-12299 Filed 5-15-02; 8:45 am]

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## DEPARTMENT OF COMMERCE

## International Trade Administration

**University of Wisconsin—Milwaukee; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument**

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW., Washington, DC.

*Docket Number:* 02-011. *Applicant:* University of Wisconsin, Milwaukee, WI

53211. *Instrument:* IR Image Furnace, Model SCI-MDH-11020. *Manufacturer:* NEC Machinery Corporation, Japan. *Intended Use:* See notice at 67 FR 18862, April 17, 2002.

*Comments:* None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides a dual mirror image furnace with a homogeneous temperature gradient around the horizontal plane with a simultaneous steeper temperature gradient along the vertical portion for growth of various oxide single crystals. The National Aeronautics and Space Administration advised May 8, 2002 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

**Gerald A. Zerdy,**

*Program Manager, Statutory Import Programs Staff.*

[FR Doc. 02-12301 Filed 5-15-02; 8:45 am]

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## DEPARTMENT OF COMMERCE

## International Trade Administration

**Application for Duty-Free Entry of Scientific Instrument**

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether an instrument of equivalent scientific value, for the purposes for which the instrument shown below is intended to be used, is being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Suite 4100W, U.S. Department of Commerce, Franklin Court Building, 1099 14th Street, NW., Washington, DC.

*Docket Number:* 02-0012.

*Applicant:* University of Vermont, College of Medicine, Molecular