

DATE: December 4, 2008

MEMORANDUM TO: David M. Spooner
Assistant Secretary
for Import Administration

FROM: Stephen J. Claeys
Deputy Assistant Secretary
for Import Administration

SUBJECT: Issue and Decision Memorandum for the Final Results of
Administrative Review of the Antidumping Duty Order on
Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from
India

Summary

We have analyzed the case brief submitted by Jindal Poly Films Limited (Jindal), the only respondent in the administrative review of this antidumping duty order. As a result of our analysis, we have made a change in the margin calculation. We recommend that you approve the position described in the "Recommendation" section of this memorandum.

Background

On August 6, 2008, the Department of Commerce (the Department) published in the Federal Register the preliminary results of the administrative review of the antidumping duty order on PET Film from India. See Polyethylene Terephthalate Film, Sheet and Strip from India: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review, 73 FR 45699 (August 6, 2008) (Preliminary Results). The period of review (POR) is July 1, 2006, through June 30, 2007. We invited interested parties to submit comments on the Preliminary Results. In response, Jindal timely filed a case brief to the Department. Petitioners, Dupont Teijin Films, Mitsubishi Polyester Film Of America, Toray Plastics (America), Inc., and SKC America, Inc., did not submit either a case or rebuttal brief in this review.

Comment: The Treatment of Duty Drawback Calculation of the Dumping Margin

Jindal maintains that, in the Preliminary Results, the Department erroneously deducted duty drawback from the U.S. price. Specifically, Jindal contends that the Department included duty drawback as part of movement expenses which were deducted from U.S. price. However, Jindal contends, the Department should instead add duty drawback to U.S. price for the final results.

Department's Position:

We agree with Jindal that duty drawback should be added to U.S. price for the final results. Section 772(c)(1)(B) of the Tariff Act of 1930, as amended (the Act) requires that the starting price for export price or constructed export price shall be increased by the amount of any import duties "imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the subject merchandise to the United States."

However, before increasing a respondent's reported U.S. sales prices by the amount of duty drawback, the Department's practice is to examine whether, (1) the import duties and rebates are directly linked to and are dependent upon one another; and (2) the company claiming the adjustment can demonstrate that there are sufficient imports of raw materials to account for the duty drawback received on exports of the manufactured product. See e.g., Steel Concrete Reinforcing Bar From The Republic of Korea: Notice of Preliminary Results and Preliminary Rescission, in Part, of Antidumping Duty Administrative Review, 71 FR 59440 (October 10, 2006), unchanged in Steel Concrete Reinforcing Bar from The Republic of Korea: Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review, 72 FR 18630 (April 13, 2007).

In its questionnaire responses, Jindal linked the duties to its exports of subject merchandise and demonstrated that Jindal imported sufficient quantities of raw materials to account for the duty drawback granted on exports of subject merchandise. See exhibit C-8(i) through (iii) dated November 6, 2007. Thus, consistent with prior administrative reviews of this order, the Department determines that import duties and rebates are directly linked and dependent upon one another and Jindal imported sufficient quantities of raw materials to account for the duty drawback granted. See e.g., Certain Polyethylene Terephthalate Film, Sheet and Strip from India: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review, 71 FR 18715 (April 12, 2006), unchanged in Certain Polyethylene Terephthalate Film, Sheet and Strip From India: Final Results of Antidumping Duty Administrative Review, 71 FR 47485 (August 17, 2006), and Certain Polyethylene Terephthalate Film, Sheet and Strip From India: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review, 69 FR 49872 (August 12, 2004), unchanged in Certain Polyethylene Terephthalate Film, Sheet and Strip From India: Final Results of Antidumping Duty Administrative Review, 70 FR 8072 (February 17, 2005). Accordingly, for these final results, the Department has recalculated the dumping margin by removing duty drawback from the movement expenses and adding it to U.S. price. This is consistent with section 772(c)(1)(B) of the Act.

Recommendation

Based on our analysis of the comment received, we recommend adopting the position as described above. If the recommendation is accepted, we will publish the final results and the final weighted-average dumping margin in the Federal Register.

Agree X

Disagree

ORIGINAL SIGNED

David M. Spooner
Assistant Secretary
for Import Administration

(Date)