UNITED STATES DEPARTMENT OF COMMERCE
International Trade Administration
Washington, D.C. 20230

A-570-924
Administrative Review
11/01/2011 - 10/31/2012
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MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

FROM: Christian Marsh CMM
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of 2011-2012 Antidumping Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China

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SUMMARY

In response to requests from interested parties, the Department of Commerce ("Department") is conducting the fourth administrative review of the antidumping duty ("AD") order on polyethylene terephthalate film, sheet, and strip ("PET film") from the People's Republic of China ("PRC") for the period of review ("POR") November 1, 2011, through October 31, 2012. The Department has preliminarily determined that the companies under review sold subject merchandise in the United States at prices below normal value ("NV").

If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. Interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review.[1] Rebuttal briefs may be filed no later than five days after case briefs are filed and may only respond to arguments raised in the case briefs.[2] We intend to issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the "Act").

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[1] See 19 CFR 351.309(c).
[2] See 19 CFR 351.309(d).

INTERNATIONAL TRADE ADMINISTRATION

Background

On November 10, 2008, the Department published in the Federal Register the AD order on PET film from the PRC.[3] On November 29, 2012, Tianjin Wanhua Co., Ltd. ("Wanhua"), Fuwei Films (Shandong) Co., Ltd. ("Fuwei Films"), and Sichuan Dongfang Insulating Material Co., Ltd., ("Dongfang") requested administrative reviews of their exports and sales.[4] In addition, on November 30, 2012, the following review requests were filed with the Department: 1) Shaoxing Xiangyu Green Packing Co., Ltd. ("Green Packing") requested an administrative review of its exports and sales;[5] 2) Mitsubishi Polyester Film, Inc., SKC, Inc., and Toray Plastics (America), Inc. (collectively, "Petitioners") requested an administrative review of Fuwei, Green Packing, Dongfang, and Wanhua;[6] 3) Bemis Company, Inc., and its wholly-owned affiliate Milprint Inc. ("Bemis"), requested an administrative review of Wanhua;[7] and 4) Terphane, Inc. requested an administrative review of DuPont Teijin Films China Limited, DuPont Hongji Films Foshan Co., Ltd., and DuPont Teijin Hongji Films Ningbo Co., Ltd. (collectively the "DuPont Group").[8] On December 31, 2012, the Department published the notice of initiation of the fourth administrative review of the AD order on PET film from the PRC in which it initiated reviews of the DuPont Group, Fuwei Films, Green Packing, Wanhua, and Dongfang, for the period November 1, 2011, through October 31, 2012.[9]

On January 29, 2013, the Department selected Green Packing and Wanhua as mandatory respondents.[10] On January 31, 2013, the Department issued its AD questionnaire to Green

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[3] See Polyethylene Terephthalate Film, Sheet, and Strip From Brazil, the People's Republic of China and the United Arab Emirates: Antidumping Duty Orders and Amended Final Determination of Sales at Less Than Fair Value for the United Arab Emirates, 73 FR 66595 (November 10, 2008).

[4] See Letter from Wanhua to the Department, regarding "Polyethylene Terephthalate (PET) Film from the People's Republic of China; A-570-924; Request for Administrative Review of Exports by Tianjin Wanhua Co., Ltd.," dated November 29, 2012; Letter from Fuwei to the Department, regarding "Polyethylene Terephthalate (PET) Film from the People's Republic of China; A-570-924; Request for Administrative Review of Exports by Fuwei Films(Shandong) Co., Ltd.," dated November 29, 2012; Letter from Dongfang to the Department, regarding "Polyethylene Terephthalate (PET) Film from the People's Republic of China; A-570-924; Request for Administrative Review of Exports by Sichuan Dongfang Insulating Material Co., Ltd.," dated November 29, 2012.

[5] See Letter from Green Packing to the Department, regarding "Polyethylene Terephthalate (PET) Film from China" dated November 30, 2012.

[6] See Letter from Petitioners to the Department, regarding "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from the People's Republic of China: Request for Antidumping Duty Administrative Review," dated November 30, 2012.

[7] See Letter from Bemis to the Department, regarding "Request For Administrative Review," dated November 30, 2012.

[8] See Letter from Terphane, Inc. to the Department, regarding "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from the People's Republic of China: Request for Antidumping Duty Administrative Review," dated November 30, 2012.

[9] See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 77 FR 77017 (December 31, 2012) ("Initiation Notice").

[10] See Memorandum to Abdelali Elouaradia, Director, Office 4, Antidumping and Countervailing Duty Operations, through Robert Bolling, Program Manager, Office 4, Antidumping and Countervailing Duty Operations, from Jonathan Hill, International Trade Compliance Analysts, Office 4, Antidumping and Countervailing Duty Operations, regarding "Respondent Selection in the Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China," (January 29, 2013) ("Respondent Selection Memorandum").

Packing and Wanhua. Between March 22, 2013, and November 13, 2013, the Department issued supplemental questionnaires to Green Packing and Wanhua. Green Packing and Wanhua submitted timely responses to the questionnaire and supplemental questionnaires between March 4, 2013, and November 20, 2013. The Department also received timely separate rate certifications from the DuPont Group, Fuwei, and Dongfang, between February 28, 2013 and March 4, 2013.

On July 15, 2013, the Department fully extended the time period for issuing the preliminary results by 120 days,[11] in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act") and 19 CFR 351.213(h)(2).

On October 18, 2013, the Department exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, 2013 through October 16, 2013.[12] Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. The revised deadline for the preliminary results of this administrative review is now December 18, 2013.

Scope of the Order

The products covered by the order 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 the order is dispositive.

Selection of Respondents

Section 777A(c)(l) of the Act directs the Department to calculate an individual weighted-average dumping margin for each known exporter and producer of the subject merchandise. However, section 777A(c)(2) of the Act gives the Department discretion to limit its examination to a reasonable number of exporters and producers if it is not practicable to make individual weighted-average dumping margin determinations because of the large number of exporters and producers involved in the review.

On January 7, 2013, the Department placed on the record CBP data for U.S. imports classified under the HTSUS subheadings identified in the scope of the AD order on PET film from the

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[11] See Memorandum from Thomas Martin, International Trade Compliance Analyst, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, regarding "Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated July 15, 2013.
[12] See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government," dated October 18, 2013.

PRC. At that time, the Department invited interested parties to submit comments regarding the CBP data for use in respondent selection.[13] On January 14, 2013, the Department received comments on respondent selection from Wanhua.

On January 29, 2013, the Department determined that it was not practicable to examine all seven exporters/producers known by the Department to have sold PET film to the United States during the POR because this number of respondents was too large to individually examine given the Department's current resource constraints, pursuant to section 777A(c)(2) of the Act.[14] Therefore, in accordance with section 777A(c)(2)(B) of the Act, the Department selected the two exporters accounting for the largest volume of PET film exported from the PRC during the POR (i.e., Wanhua and Green Packing) based on CBP data.[15]

DISCUSSION OF THE METHODOLOGY

Non-Market Economy Country

The Department considers the PRC to be a non-market economy ("NME") country.[16] In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. Therefore, we continue to treat the PRC as an NME country for purposes of these preliminary results. We calculated NV using the factors of production ("FOP") methodology in accordance with section 773(c) of the Act, which applies to NME countries.

Separate Rate

In all proceedings involving NME countries, the Department maintains a rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single weighted-average dumping margin.[17] In the Initiation Notice, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings.[18] It is the Department's policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (de jure) and in fact (de facto), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an

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[13] See Memorandum to All Interested Parties from the Department, dated January 7, 2013.
[14] See Respondent Selection Memorandum.
[15] Id.
[16] See Hardwood and Decorative Plywood From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 58273 (September 23, 2013) and the accompanying Issues and Decision Memorandum at the Background section.
[17] See Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 55039, 55040 (September 24, 2008); Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China, 71 FR 53079, 53082 (September 8, 2006); Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People's Republic of China, 71 FR 29303, 29307 (May 22, 2006).
[18] See Initiation Notice, 77 FR at 77018.

NME country under the test established in Sparklers,[19] as amplified by Silicon Carbide.[20] However, if the Department determines that a company is wholly foreign-owned or located in a market economy ("ME"), then analysis of the de jure and de facto criteria are not necessary to determine whether the company is independent from government control and eligible for a separate rate.[21] In this administrative review, we received responses to section A of the NME AD questionnaire from Green Packing and Wanhua, which contained information pertaining to each company's eligibility for a separate rate. The Department also received separate rate certifications from Dongfang, Fuwei Films, and the DuPont Group.

Separate Rate Recipients

1. Wholly Foreign-Owned

Fuwei Films demonstrated in its separate-rate certification that it is 100 percent ME foreign owned.[22] Therefore, there is no PRC ownership of Fuwei Films. Because the Department has no evidence indicating that Fuwei Films is under the control of the PRC government and consistent with our standard practice, a separate rate analysis is not necessary to determine whether it is independent from government control.[23] Accordingly, the Department has preliminarily granted separate rate status to Fuwei Films.

2. Joint Ventures Between Chinese and Foreign Companies or Wholly Chinese-Owned Companies

DuPont Group,[24] Green Packing,[25] Dongfang,[26] and Wanhua[27] reported that they are either wholly Chinese-owned companies, or joint ventures between Chinese and foreign companies. Therefore, the Department must analyze whether these respondents can demonstrate the absence of both de jure and de facto governmental control over export activities.

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[19] See Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China, 56 FR 20588 (May 6, 1991) ("Sparklers").
[20] See Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China, 59 FR 22585 (May 2, 1994) ("Silicon Carbide").
[21] See, e.g., Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles From the People's Republic of China, 72 FR 52355, 52356 (September 13, 2007).
[22] See Fuwei Film's March 4, 2013 Separate Rate Certification at 2.
[23] See Brake Rotors From the People's Republic of China: Preliminary Results and Partial Rescission of the Fourth New Shipper Review and Rescission of the Third Antidumping Duty Administrative Review, 66 FR 1303, 1306 (January 8, 2001), unchanged in Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of Fourth New Shipper Review and Rescission of Third Antidumping Duty Administrative Review, 66 FR 27063 (May 16, 2001); Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate From the People's Republic of China, 64 FR 71104 (December 20, 1999).
[24] See DuPont Group's February 28, 2013 Separate Rate Certification response at 3.
[25] See Green Packing's Antidumping Questionnaire Response, Section A, dated March 5, 2013 at 2-13; see also Green Packing's Supplemental Section A Questionnaire Response, dated April 9, 2013 at SA-1 through SA-3.
[26] See Dongfang's March 4, 2013 Separate Rate Certification response at 2.
[27] See Wanhua's Antidumping Questionnaire Response, Section A, dated March 4, 2013 at 2-11.

a. Absence of De Jure Control

The Department considers the following de jure criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses, (2) any legislative enactments decentralizing control of companies, and (3) other formal measures by the government decentralizing control of companies.[28]

The evidence provided by DuPont Group,[29] Green Packing,[30] Dongfang,[31] and Wanhua[32] supports a preliminary finding of de jure absence of government control based on the following: (1) an absence of restrictive stipulations associated with their business and export licenses, (2) applicable legislative enactments decentralizing control of companies, and (3) formal measures by the government decentralizing control of companies.

b. Absence of De Facto Control

Typically, the Department considers four factors in evaluating whether each respondent is subject to de facto government control of its export functions: (1) whether the export prices are set by or are subject to the approval of a government agency, (2) whether the respondent has authority to negotiate and sign contracts and other agreements, (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management, and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. The Department has determined that an analysis of de facto control is critical in determining whether respondents are, in fact, subject to a degree of governmental control, which would preclude the Department from assigning separate rates.[33]

The evidence provided by DuPont Group,[34] Green Packing,[35] Dongfang,[36] and Wanhua[37] supports a preliminary finding of de facto absence of government control based on the following: (1) the absence of evidence that the export prices are set by or are subject to the approval of a government agency, (2) the respondents have authority to negotiate and sign contracts and other agreements, (3) the respondents have autonomy from the government in making decisions regarding the selection of management, and (4) the respondents retain the proceeds of their export sales and make independent decisions regarding disposition of profits or financing of losses. Therefore, the Department preliminarily finds that Dongfang, DuPont Group, Green

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[28] See Sparklers, 56 FR at 20589.
[29] See DuPont Group's February 28, 2013 Separate Rate Certification response at 3.
[30] See Green Packing's Antidumping Questionnaire Response, Section A, dated March 5, 2013 at 2-13; see also Green Packing's Supplemental Section A Questionnaire Response, dated April 9, 2013 at SA-1 through SA-3.
[31] See Dongfang's March 4, 2013 Separate Rate Certification response at 2.
[32] See Wanhua's Antidumping Questionnaire Response, Section A, dated March 4, 2013 at 2-11.
[33] See Silicon Carbide, 59 FR at 22587; see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China, 60 FR 22544, 22545 (May 8, 1995).
[34] See DuPont Group's February 28, 2013 Separate Rate Certification response at 3.
[35] See Green Packing's Antidumping Questionnaire Response, Section A, dated March 5, 2013 at 2-13; see also Green Packing's Supplemental Section A Questionnaire Response, dated April 9, 2013 at SA-1 through SA-3.
[36] See Dongfang's March 4, 2013 Separate Rate Certification response at 2.
[37] See Wanhua's Antidumping Questionnaire Response, Section A, dated March 4, 2013 at 2-11.

Packing, and Wanhua have established that they qualify for a separate rate under the criteria established by Silicon Carbide and Sparklers.

Rate for Non-Selected Companies

The statute and the Department's regulations do not address the establishment of a rate to be applied to individual respondents not selected for examination when the Department limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, the Department looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents which we did not examine in an administrative review.[38] Section 735(c)(5)(A) of the Act articulates a preference that we are not to calculate an all-others rate using rates which are zero, de minimis or based entirely on facts available. Accordingly, the Department's usual practice in determining the rate for separate-rate respondents not selected for individual examination has been to average the weighted-average dumping margins for the selected companies, excluding rates that are zero, de minimis, or based entirely on facts available.[39] Section 735(c)(5)(B) of the Act also provides that, where all rates are zero, de minimis, or based entirely on facts available, we may use "any reasonable method" for assigning the all-others rate, including "averaging the estimated weighted-average dumping margins determined for the exporters and producers individually investigated."

In these preliminary results, the Department has calculated a rate for two of the mandatory respondents (i.e., Wanhua and Green Packing) that is not zero, de minimis, or based entirely on facts available. Normally, the Department's practice is to assign to separate rate entities that were not individually examined a rate equal to the weighted average of the rates calculated for the individually examined respondents, excluding any rates that are zero, de minimis, or based entirely on adverse facts available ("AFA").[40] Consistent with this practice, the Department has assigned to the companies that have not been individually examined but have demonstrated their eligibility for a separate rate a margin equal to the weighted-average margin using the ranged sales values which Wanhua and Green Packing disclosed in the public versions of their questionnaire responses.[41]

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[38] See, e.g., Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, and Affirmative Final Determination of Critical Circumstances, in Part, 77 FR 63791, 63794 (Oct. 17, 2012).

[39] See Longkou Haimeng Mach. Co. v. United States, 581 F. Supp. 2d 1344, 1357-60 (Ct. Int'l Trade 2008) (affirming the Department's determination to assign a 4.22 percent dumping margin to the separate rate respondents in a segment where the three mandatory respondents received dumping margins of 4.22 percent, 0.03 percent, and zero percent, respectively); Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 74 FR 36656, 36660 (July 24, 2009).

[40] See, e.g., Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China, 71 FR 77373, 77377 (December 26, 2006), unchanged in Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China, 72 FR 19690 (April 19, 2007).

[41] See Memorandum from Thomas Martin to the File, "Fourth Administrative Review of the Antidumping Duty Order on Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Calculation of the Margin for Respondents Not Selected for Individual Examination," dated concurrently with this notice.

Surrogate Country and Surrogate Value Data

When the Department investigates imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's FOP, valued in a surrogate ME country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOP, the Department shall utilize, to the extent possible, the prices or costs of FOP in one or more ME countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise.[42] Further, pursuant to 19 CFR 351.408(c)(2), the Department will normally value FOPs in a single country.

On January 31, 2013, the Office of AD/CVD Operations ("Operations") requested that the Office of Policy ("OP") provide a list of potential surrogate countries for use in this antidumping duty administrative review.[43] On February 14, 2013, the OP issued a memorandum ("OP Memorandum") identifying six countries as being at the level of economic development of the PRC for the POR.[44] The countries identified in that memorandum are Colombia, Costa Rica, Indonesia, the Philippines, South Africa, and Thailand.[45]

In comments dated April 30, 2013, Petitioners,[46] Wanhua,[47] and Green Packing[48] placed information on the record supporting the use of Indonesia as the surrogate country for calculating NV. Wanhua additionally argued that South Africa, as well as seven other countries, i.e., Egypt, Macedonia, Ukraine, Albania, Peru, Belarus, and Armenia, are appropriate surrogate countries upon which to base NV.[49] On May 10, 2013, Petitioners, Wanhua and Green Packing filed

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[42] See Import Administration Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process (March 1, 2004) ("Policy Bulletin").
[43] See Memorandum from Robert Bolling, Program Manager, AD/CVD Operations, Office 4, to Carole Showers Director, Office of Policy, "4th Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Request for Surrogate Countries List" (January 31, 2013).
[44] See Memorandum from Carole Showers, Director, Office of Policy, to Robert Bolling, Program Manager, Office 4, "Request for a List of Surrogate Countries for an Administrative Review of the Antidumping Duty Order on Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China." (February 14, 2013) ("Policy Memorandum").
[45] See OP Memorandum at 2.
[46] While Petitioners also noted Thailand as a potential surrogate country, Petitioners only placed supporting data for Indonesia on the record. See Letter from Petitioners to the Secretary of Commerce, "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from the People's Republic of China: Comments on Surrogate Country Selection," dated April 30, 2013 ("Petitioners' SC Comments"), at 2.
[47] The Department notes that Wanhua broadly objects to what it deems the "precipitous process" being used to select the Surrogate Country. See Letter from Wanhua to Secretary of Commerce, "Polyethylene Terephthalate (PET) Film from the People's Republic of China; A-570-924; Rebuttal Surrogate Country Selection Comments and Information (May 10, 2013) ("Wanhua Rebuttal") at 1. Wanhua is primarily concerned because the Department had not issued its finals results in the previous administrative review regarding surrogate value selection until after surrogate country comments were due even though it was the first time India would not be selected as a surrogate country for the PRC. It claims that, prior to the Department's final review, "no party can be expected to make fully {a} informed comment." Because we issued the final results of the previous administrative review on June 12, 2013, and have since offered interested parties additional opportunity to comment on these preliminary results, the comment by Wanhua is now moot.
[48] See Letter from Green Packing to the Secretary of Commerce, "Re: Polyethylene Terephthalate (PET) Film from China," dated April 30, 2013.
[49] See Letter from Wanhua to the Secretary of Commerce, "Polyethylene Terephthalate (PET) Film from the

rebuttal surrogate country comments. In its rebuttal comments, Wanhua contended that the Department should select South Africa as the surrogate country, but that Thailand and Indonesia were also appropriate.[50]

All parties agree that Indonesia fulfills the requirements laid out in section 773(c)(4) of the Act for a surrogate country, although not all agree that it is the optimal choice. Petitioners state that Indonesia and Thailand are acceptable surrogate countries but they provided surrogate value ("SV") data only for Indonesia.[51] Wanhua contends that South Africa is the preferable surrogate country from among the countries listed in the OP Memorandum but it also notes that Indonesia and Thailand are acceptable alternatives (if adjusted to correct unspecified "clear errors") from the list in that memorandum.[52] However, Wanhua argues that there are better potential surrogate countries not included in the OP Memorandum, such as India.[53] Green Packing initially argued that Indonesia was the appropriate surrogate country,[54] but raised some concerns in its rebuttal comments about the lack of PET chip grade classifications in Indonesian import statistics.[55]

Petitioners contend that both Indonesia and Thailand are acceptable surrogate countries because: 1) both countries are significant producers of merchandise that is comparable or identical to PET film; and 2) both countries are at a comparable level of economic development as the PRC. Petitioners note that the Department previously found both Indonesia and Thailand to be significant producers of comparable merchandise.[56] Petitioners provided Indonesian SVs, Indonesian import data for the POR for certain FOPs, the 2012 financial statement of PT Argha Karya Prima Industry, Tbk ("Argha Karya") and surrogate financial ratios based on this financial statement, brokerage and handling expenses, and Indonesia-U.S. exchange rate information.[57]

Petitioners claim that the Indonesian financial statement submitted by Green Packing for PT Trias Sentosa Tbk ("Trias") is unusable, and that the Department determined as much in the 2010-2011 administrative review.[58] Instead, Petitioners suggest using Argha Karya's financial statements which were used in the 2010-2011 administrative review in this proceeding.[59]

People's Republic of China; A-570-924; Comments on Surrogate Country Selection," dated April 30, 2013 ("Wanhua Comments"), at 5. The seven additional countries are Egypt, Macedonia, Ukraine, Albania, Peru, Belarus, and Armenia.

[50] See Letter from Wanhua to the Secretary of Commerce, "Polyethylene Terephthalate (PET) Film from the People's Republic of China; A-570-924; Rebuttal Surrogate Country Selection Comments and Information," dated May 10, 2013 ("Wanhua Rebuttal Comments"), at 3.

[51] See Petitioners' SC Comments at 1.

[52] See Wanhua Rebuttal at 3.

[53] Id.

[54] See Letter from Green Packing to Secretary of Commerce, "Polyethylene Terephthalate (PET) Film from China (April 30, 2013) ("Green Packing Comments") at 1.

[55] See Green Packing Rebuttal at 1.

[56] Id. citing Memorandum from Jonathan Hill, International Trade Compliance Analyst, AD/CVD Operations, Office 4, to Abdelali Elouaradia, Director, AD/CVD Operations, Office 4 "Third Antidumping Duty Administrative Review of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China" (December 3, 2012).

[57] Id. at 2.

[58] See Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Preliminary Results of Administrative Review; 2010-2011, 77 FR 73428 (December 10, 2012) and the accompanying Decision Memorandum ("AR3 Preliminary Results") at the Factor Valuations section.

[59] See Petitioner Rebuttal at 2.

Second, Petitioners claim that Wanhua did not explain why the Department should consider countries not in the OP Memorandum, such as India, in selecting a surrogate country. Lastly, Petitioners claim that Wanhua fails to provide calculations of SVs for the suggested countries which are not in the OP Memorandum nor does it justify its contention that South Africa is a substantial producer of comparable merchandise.[60]

Green Packing argues that Indonesia is the appropriate surrogate country as it fulfills all of the requirements in 773(c)(4) of the Act.[61] Wanhua contends that there are better potential surrogate countries not included in the OP Memorandum, such as India.[62] However, argues Wanhua, if the Department selects a surrogate country from the OP Memorandum it should select South Africa or alternatively Thailand or Indonesia.[63] Wanhua claims that the Department's methodology is flawed due to its sole reliance on Gross National Income ("GNI") statistics from the World Bank for determining which countries are "economically comparable" to the PRC because GNI does not account for important economic factors such as unemployment rates, the cost of energy and raw materials, economy size, the nature of other industries, and whether PET products are used in other industries.[64] However, if GNI data are to be the sole basis for economic comparability, Wanhua argues that the Department should evaluate all countries with GNI ratings that rank in between those of the countries included in the OP Memorandum.[65] Wanhua identified two countries from the OP Memorandum as being substantial producers of comparable merchandise: Indonesia and South Africa.[66] In addition, it identified a number of countries within the GNI range described above which are substantial producers and should thus be considered, including but not limited to: Albania, Armenia, Belarus, Egypt, Macedonia, Peru and Ukraine.[67]

Wanhua claims that the most appropriate surrogate country is South Africa, not Indonesia or Thailand as Petitioners propose. Although South Africa has not previously been selected as the surrogate country in this proceeding, Wanhua contends that it is a substantial producer of comparable merchandise and has good quality import data. If South Africa is not selected as the surrogate country, Wanhua agrees that Thailand or Indonesia would be the next acceptable alternatives. However, Wanhua notes that Thailand was rejected as a surrogate country in multiple previous reviews due to issues with its data quality. In addition, many similar data issues were raised in the last review with regards to Indonesian data, for which an official Department determination has not yet been issued (at the time of Wanhua's comments).[68]

In sum, thirteen countries, six countries from the OP Memorandum and seven countries named by Wanhua, have been identified as potential surrogate countries. In addition, Wanhua argued

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[60] See Petitioner Rebuttal at 3-4.
[61] See Letter from Green Packing to Secretary of Commerce, "Polyethylene Terephthalate (PET) Film from China (April 30, 2013) ("Green Packing Comments") at 1.
[62] See Wanhua Comments at 1-2, 10.
[63] Id. at 1.
[64] Id. at 4; Wanhua supports its argument against the use of GNI data by criticizing the dramatically lower GNI rating given to the United States ($48,620) compared with countries such as Luxembourg ($77,580), Norway ($88,000) and Monaco ($183,150).
[65] See Wanhua Comments at 5.
[66] Id. at 7.
[67] Id. at 5, 8-9.
[68] See Green Packing Rebuttal at 3.

the India could also be used as a surrogate country. Two of the seven countries identified by Wanhua, Armenia and Belarus, are NME countries themselves, and thus cannot be selected as the surrogate country for the PRC. Furthermore, for the reasons explained below, we have not considered India as a potential surrogate country for the preliminary results of this administrative review. Below we evaluated the remaining 11countries in terms of economic comparability, whether they are significant producers of comparable merchandise, and data availability.

Economic Comparability

The Department's practice, as reflected in the Policy Bulletin, is to follow the procedures described below for identifying countries that are at the level of economic development of the NME country:

> First, early in a proceeding, Operations sends the OP a written request for a list of potential surrogate countries. In response, the OP provides a list of potential surrogate countries that are at a comparable level of economic development to the NME country. The OP determines economic comparability on the basis of per capita gross national income, as reported in the most current annual issue of World Development Report (The World Bank). The surrogate countries on the list are not ranked and should be considered equivalent in terms of economic comparability.[69]

As noted above, we requested and obtained a list of potential surrogate countries from the OP. OP determined that Colombia, Costa Rica, Indonesia, the Philippines, South Africa, and Thailand are each at the PRC's level of economic development in terms of per capita GNI.[70] Additionally, the seven countries named by Wanhua, i.e., Albania, Armenia, Belarus, Egypt, Macedonia, Peru and Ukraine, are also at the level of economic development of the PRC in terms of per capita GNI. However, as noted above, Armenia and Belarus are NME countries themselves, and thus cannot be selected as the surrogate country for the PRC.[71]

In the OP Memorandum and the Request for Comments, the Department also stated that interested parties may comment on a country not listed in the OP Memorandum, provided that they submit sufficient information with respect to that country. Wanhua argues that although India is not on the Department's list of potential surrogate countries, it should still be chosen

[69] See Policy Bulletin at 2 (endnotes omitted); see e.g., Utility Scale Wind Towers From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 77 FR 75992 (December 26, 2012) and the accompanying Issues and Decision Memorandum at Comment 1. Although 19 CFR 351.408(b) instructs the Department to rely on gross domestic product ("GDP") data in such comparisons, it is Departmental practice to use "per capita GNI, rather than per capita GDP, because while the two measures are very similar, per capita GNI is reported across almost all countries by an authoritative source (the World Bank), and because the Department finds that the per capita GNI represents the single best measure of a country's level of total income and thus level of economic development." See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments, 71 FR 61716 (October 19, 2006) ("Antidumping Methodologies").
[70] See OP Memorandum at 2.
[71] The Department considers the following countries to be NMEs: Armenia, Belarus, Georgia, the Kyrgyz Republic, Moldova, the PRC, the Republic of Azerbaijan, the Socialist Republic of Vietnam, Tajikistan, Turkmenistan and Uzbekistan. See De Facto Criteria for Establishing a Separate Rate in Antidumping Proceedings Involving Non-Market Economy Countries, 78 FR 40430 (July 5, 2013), note 3.

because it is at a level of development comparable to the PRC when using World Bank statistics from the World Development Index, aside from GNI. As Wanhua infers, India is not at the level of economic development of the PRC, based on GNI per-capita. The conditions under which we would consider selecting countries not within the established GNI band, such as India, do not apply in this review because, as discussed below, the OP Memorandum provides at least one country that is a significant producer of comparable merchandise with available quality data for surrogate values. Therefore, we have not considered India as a potential surrogate country for the preliminary results of this administrative review. We next examined whether the 11 countries that are at the PRC's level of economic development in terms of per capita GNI, Albania, Colombia, Costa Rica, Egypt, Indonesia, Macedonia, Peru, the Philippines, South Africa, Thailand, and Ukraine, are significant producers of identical or comparable merchandise.

Significant Producers of Identical or Comparable Merchandise

The Department's practice, as reflected in the Policy Bulletin, is to follow the procedures described below regarding the identification of comparable merchandise:

> '{C}omparable merchandise' is not defined in the statute or the regulations, since it is best determined on a case-by-case basis. Even so, there are some basic rules that every team should follow. In all cases, if identical merchandise is produced, the country qualifies as a producer of comparable merchandise. In cases where identical merchandise is not produced, the team must determine if other merchandise that is comparable is produced.[72]

With respect to whether a country is a significant producer of comparable merchandise, the Department's practice, as stated in the Policy Bulletin is to consider the following:

> The extent to which a country is a significant producer should not be judged against the NME country's production level or the comparative production of the five or six countries on OP's surrogate country list. Instead, a judgment should be made consistent with the characteristics of world production of, and trade in, comparable merchandise (subject to the availability of data on these characteristics). Since these characteristics are specific to the merchandise in question, the standard for 'significant producer' will vary from case to case.[73]

A comparison of production quantities of the comparable merchandise from each potential surrogate country in relation to world production was not possible because the record does not contain production quantities of comparable merchandise from each potential surrogate country. The Department next sought evidence of production of comparable merchandise in the form of export data, under the assumption that exporters of comparable merchandise are also significant producers. The Department obtained export data from the Global Trade Atlas ("GTA") for Colombia, Costa Rica, Indonesia, the Philippines, South Africa, and Thailand for the six-digit

[72] See Policy Bulletin 04.1. See e.g., Hardwood and Decorative Plywood From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 58273 (September 23, 2013) and the accompanying Issues and Decision Memorandum at Comment 7.
[73] Id.

Harmonized Tariff Schedule ("HTS") sub-heading listed in the scope of the antidumping duty order in this proceeding (i.e., 3920.62).[74] Based on these data, the Department has found that record evidence demonstrates that Colombia, Costa Rica, Indonesia, the Philippines, South Africa, and Thailand are all significant producers of comparable merchandise. Additionally, the export data demonstrates that two of the five potential surrogate countries named by Wanhua, specifically Peru and Ukraine, are significant producers of comparable merchandise.[75] Regarding the remaining three potential surrogate countries named by Wanhua, Albania, Egypt, and Macedonia, the Department has reviewed the producer information submitted by Wanhua, and preliminarily finds that for Albania and Egypt, the information is sufficient to demonstrate significant production of comparable merchandise in those countries.[76] However, with respect to Macedonia, Wanhua submitted Macedonian export data for eight specific HTS subheadings, but did not submit any descriptions of the merchandise covered by these subheadings.[77] Thus, the Department finds that there is an insufficient factual basis to find Macedonia to be a significant producer of comparable merchandise. We next examined record SV data with respect to the 10 countries that are at the PRC's level of economic development in terms of per capita GNI and are significant producers of identical or comparable merchandise, Albania, Colombia, Costa Rica, Egypt, Indonesia, Peru, the Philippines, South Africa, Thailand, and Ukraine.

Data Availability

When evaluating SV data, the Department considers several factors including whether the SVs are publicly available, contemporaneous with the POR, represent a broad-market average, from an approved surrogate country, tax and duty-exclusive, and specific to the input.[78] The Department's preference is to satisfy the breadth of these aforementioned selection factors.[79]

The Indonesian SV data are complete, with respect to the data used to value direct materials and packing materials.[80] No party submitted complete, or even nearly complete, data for any other potential surrogate country. Any party advocating a specific surrogate country has the burden of creating an adequate record to support its selection.[81] Further, there is one financial statement on the record from South Africa, i.e., AstraPak Limited ("AstraPak") provided by Wanhua,[82] and two financial statements on the record from Indonesia, i.e., Trias, provided by Green Packing,[83]

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[74] See Memorandum from Thomas Martin to the File, "World Export Data for Polyethylene Terephthalate Film, 2011-2012," dated concurrently with this memorandum.
[75] Id.
[76] See Wanhua Comments at Exhibits SC-3(b) and SC-3(e).
[77] Id. at Exhibit SC-3(c).
[78] See, e.g., Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review and New Shipper Reviews; 2010-2011, 78 FR 17350 (March 21, 2013), and accompanying Issues and Decision Memorandum at Comment I(C).
[79] Id.
[80] See Petitioners' SC Comments at Exhibit 3.
[81] See, e.g., QVD Food Co. v. United States, 658 F.3d 1318, 1324 (Fed. Cir. 2011) ("Although Commerce has authority to place documents in the administrative record that it deems relevant, 'the burden of creating an adequate record lies with {interested parties} and not with Commerce") (citing Tianjin Mach. Imp. & Exp. Corp. v. United States, 806 F.Supp. 1008, 1015 (CIT 1992); NTN Bearing Corp. of Am. v. United States, 997 F.2d 1453, 1458-59 (Fed.Cir.1993)).
[82] See Wanhua Rebuttal Comments.
[83] See Green Packing Comments.

and Argha Karya provided by Petitioners.[84] AstraPak produces comparable merchandise such as polyethylene film and PET containers.[85] Trias and Argha Karya produce identical merchandise. The Department has a preference for selecting the financial statements of a producer of identical merchandise over a producer of comparable merchandise when such information is available.[86]

Given the above facts, the Department has selected Indonesia as the primary surrogate country for this review. Indonesia is at the level of economic development of the PRC, is a significant producer of subject merchandise, and has reliable and usable SV data. The Department also notes that Indonesia was also found to be a reliable source for SVs in the most recently completed third antidumping duty administrative review in this proceeding, where the Department found that Indonesia is at the level of economic development of the PRC pursuant to 773(c)(4) of the Act, is a significant producer of identical and comparable merchandise, and has publicly available and reliable data.[87] A detailed description of the Indonesian SVs selected by the Department is provided below in the "Normal Value" section of this notice.

Date of Sale

In identifying the date of sale of the merchandise under consideration, the Department will normally, in accordance with 19 CFR 351.401(i), "use the date of invoice, as recorded in the exporter or producer's records kept in the normal course of business." Green Packing and Wanhua both reported the invoice date as the date of sale, and there is no other information on the record indicating that there is a better date on which the material terms of sales are established.[88] Thus, consistent with its regulatory preference, the Department has preliminarily determined to use the invoice date as the date of sale.

Fair Value Comparisons

To determine whether Green Packing and Wanhua's sales of subject merchandise were made at less than NV, we compared export price ("EP") to NV, as described in the "Export Price" and "Normal Value" sections below.[89] In particular, the Department compared monthly weighted-

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[84] See Petitioners' SC Comments at Exhibit 4.
[85] See Wanhua Rebuttal Comment (AstraPak financial statement at 8-11)
[86] See, e.g., Certain Cased Pencils from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Determination to Revoke Order in Part, 78 FR 42932 (July 18, 2013) and accompanying Issues and Decision Memorandum at Comment 1 (where the Department chose the data for one country over another country because the selected country's data included financial statements from an identical producer which better approximated the production experience of the respondent).
[87] See AR3 Preliminary Results (unchanged in Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011, 78 FR 35245 (June 12, 2013) and accompanying Issues and Decision Memorandum at Issue 2 ("AR3 Final")).
[88] See Letter from Wanhua to Dr. Rebecca Blank, "Re: Polyethylene Terephthalate (PET) Film from the People's Republic of China; A-570-924; Section C and D Response by Tianjin Wanhua Co., Ltd.," dated March 21, 2013 at C-9; See Letter from Green Packing to Secretary of Commerce, "RE: Polyethylene Terephthalate (PET) Film from China," dated March 28, 2013 at 12-13.
[89] In these preliminary results, the Department applied the assessment rate calculation method adopted in Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification, 77 FR 8101 (February 14, 2012) ("Final Modification for Reviews"). In particular, the Department compared monthly weighted-average EPs with weighted-average NVs and

average EPs with weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

Determination of Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average EPs (or constructed export prices ("CEPs")) (the average-to-average method) unless the Department determines that another method is appropriate in a particular situation. In AD investigations, the Department examines whether to use the average-to-transaction method as an alternative comparison method using an analysis consistent with section 777A(d)(l)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in AD investigations.[90] In recent investigations, the Department applied a "differential pricing" analysis to determine whether application of average-to-transaction comparisons is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act.[91] The Department finds the differential pricing analysis used in those recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review.[92] The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating weighted-average dumping margins.

The differential pricing analysis used in these preliminary results requires a finding of a pattern of EPs (or CEPs) for comparable merchandise that differs significantly among purchasers,

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granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin; see also section 773(a)(1)(B)(ii) of the Act; 19 CFR 351.414(c)(1) and (d).

[90] See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1.

[91] See Xanthan Gum from the People' s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 78 FR 2252 (January 10, 2013), unchanged in Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33351 (June 4, 2013); see also Hardwood and Decorative Plywood From the People's Republic of China: Antidumping Duty Investigation, 78 FR 25946 (May 3, 2013), unchanged in Hardwood and Decorative Plywood From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 58273 (September 23, 2013); see also Certain Steel Threaded Rod From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, FR 78 21101 (April 9, 2013), unchanged in Certain Steel Threaded Rod From the People's Republic of China; Final Results of Third Antidumping Duty Administrative Review; 2011-2012, 78 FR 66330 (November 5, 2013); see also Certain Lined Paper Products From the People's Republic of China: Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review; 2011-2012, 78 FR 34640 (June 10, 2013) unchanged in Certain Lined Paper Products From the People's Republic of China: Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review; 2011-2012, 78 FR 65274 (October 31, 2013).

[92] See, e.g., Activated Carbon From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 26748 (May 8, 2013), unchanged in Certain Activated Carbon From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 70533 (Nov. 26, 2013), and accompanying Issues & Decision Memorandum at Comment 4.

regions, or time periods. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The differential pricing analysis used here evaluates all purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the reported customer names. Regions are defined using the reported destination code (i.e., city name, zip code, etc.) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR being examined based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region and time period, comparable merchandise is considered using the product control number and any characteristics of the sales, other than purchaser, region and time period, that the Department uses in making comparisons between EP (or CEP) and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* test is a generally recognized statistical measure of the extent of the difference between the mean of a test group and the mean of a comparison group. First, for comparable merchandise, the Cohen's *d* test is applied when the test and comparison groups of data each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen's *d* coefficient is calculated to evaluate the extent to which the net prices to a particular purchaser, region or in a time period differ significantly from the net prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large. Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the means of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference was considered significant if the calculated Cohen's d coefficient is equal to or exceeds the large (i.e., 0.8) threshold.

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test account for 66 percent or more of the value of total sales, then the identified pattern of EPs that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen's *d* test as an alternative to the average-to-average method, and application of the average-to-average method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage (i.e., the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of EPs that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, we examine whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis, and, therefore, an alternative method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if: 1) there is a 25 percent relative change in the weighted-average dumping margin between the average-to-average method and the appropriate alternative method where both rates are above the de minimis threshold, or 2) the resulting weighted-average dumping margin moves across the de minimis threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

Results of the Differential Pricing Analysis

The results of the differential pricing analysis for both mandatory respondents demonstrate that less than 33 percent of each company's export sales pass the Cohen's *d* test. As such, the Department finds that these results do not support consideration of an alternative to the average-to-average comparison method. Accordingly, the Department has determined to use the average-to-average method in making comparisons of EP and NV for both mandatory respondents.[93]

U.S. Price

Export Price

In accordance with section 772(a) of the Act, EP is "the price at which subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States," as adjusted under section 772(c) of the Act. We used the EP methodology, in accordance with section 772(a) of the Act, for sales in which the subject merchandise was first sold prior to importation by the exporter outside the United States directly to an unaffiliated purchaser in the United States and for sales in which CEP was not otherwise indicated. We find that all of Green Packing's and Wanhua's sales in this review are EP sales.

We based EP on the price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2)(A) of the Act, where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight, marine insurance, domestic and ME brokerage and

[93] See Final Modification for Reviews.

handling, and ocean freight. We valued inland truck freight using an Indonesian per-unit average rate calculated from data contained in The Cost of Moving Goods: Road Transportation, Regulations and Charges in Indonesia as published by The Asia Foundation. We adjusted this rate for inflation using the Indonesian wholesale price index.[94] We valued marine insurance using a price quote retrieved from RJG Consultants, an ME provider of marine insurance. We did not inflate this rate since it is contemporaneous with the POR.[95] We valued brokerage and handling using a price list of export procedures necessary to export a standardized cargo of goods in Indonesia. The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in Indonesia as reported in "Doing Business 2012: Indonesia" published by the World Bank.[96] We valued ocean freight from the PRC to the United States using data obtained from the Descartes Carrier Rate Retrieval Database, available at www.descartes.com.[97]

Value Added Tax ("VAT")

The Department's recent practice in NME cases is to adjust EP or CEP for the amount of any unrefunded VAT, in accordance with section 772(c)(2)(B) of the Act.[98] The Department requested that Green Packing[99] and Wanhua[100] report the net unrefunded VAT for the subject merchandise. Wanhua reported that the official VAT rate for PET film inputs is 17 percent and the refund rate for exports is 13 percent, under the applicable PRC regulations.[101] Thus, Wanhua reported an effective VAT rate of four percent. Green Packing reported that for the subject merchandise sold in the United States, the direct material input (i.e., PET chips) was imported under bond without any payment of VAT.[102] Green Packing paid VAT for packing materials, at a 17 percent rate.[103]

Because Wanhua reported that it pays VAT associated with subject merchandise that is not refunded at a net rate of four percent, the Department adjusted Wanhua's net price for the unrefunded VAT, in order to calculate a price net of VAT.[104] We note that this is consistent with

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[94] See Surrogate Value Memorandum at 9.
[95] Id.
[96] See Memorandum to the File from Jonathan Hill and Thomas Martin to Howard Smith, regarding "Preliminary Results of the Fourth Administrative Review of the Antidumping Duty Order on Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Surrogate Value Memorandum," dated concurrently with this memorandum ("Surrogate Value Memorandum").
[97] Id.
[98] See Methodological Change for Implementation of Section 772(c)(2)(B) of the Tariff Act of 1930, as Amended, In Certain Non-Market Economy Antidumping Proceedings, 77 FR 36481, 36483-84 (June 19, 2012) ("Methodological Change").
[99] See the Department's Supplemental Questionnaire to Green Packing, dated November 7, 2013.
[100] See the Department's Supplemental Questionnaire to Wanhua, dated November 13, 2013.
[101] See Letter from Wanhua to Honorable Penney Pritzker, "Re: Polyethylene Terephthalate (PET) Film from the People's Republic of China; A-570-924; Supplemental Section C Response by Tianjin Wanhua Co., Ltd.," dated November 20, 2013, at 1-2.
[102] See Letter from Green Packing to Secretary of Commerce, "RE: Polyethylene Terephthalate (PET) Film from China," dated November 14, 2013, at 1.
[103] Id.
[104] Memorandum to the File from Jonathan Hill and Thomas Martin to Howard Smith, regarding "Fourth Administrative Review of the Antidumping Duty Order on Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Analysis of the Preliminary Results Margin Calculation for Tianjin Wanhua Co.,

the Department's longstanding policy, and the intent of the statute, that dumping comparisons be tax-neutral.[105]

Green Packing reported that the direct materials that make up the vast majority of the cost of production are imported under bond, and tracked in their accounting system under its "processing trade" accounts.[106] Green Packing has provided documentation to support its claim that it produced the merchandise sold in the United States with the imported direct materials.[107] Because Green Packing reported that it paid no VAT for the direct materials comprising the vast majority of the cost of production of subject merchandise sold in the United States, the Department has made no adjustment to Green Packing's U.S. price for VAT for the preliminary results.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV in an NME context on the FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.[108] Under section 773(c)(3) of the Act, FOPs include but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; and (3) representative capital costs.

Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on FOPs reported by Green Packing and Wanhua for the POR. Specifically, the Department used FOPs reported by Green Packing and Wanhua for materials, labor, packing and by-products to calculate NV. In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to find an appropriate SV to value each FOP. However, when a producer sources an input from an ME and pays for it in an ME currency, the Department normally will value the

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Ltd.," dated concurrently with this memorandum ("Wanhua Analysis Memorandum").

[105] See Methodological Change, (citing Antidumping Duties; Countervailing Duties, 62 FR 27296, 27369 (May 19, 1997) and Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, vol. 1, 827, reprinted in 1994 U.S.C.C.A.N. 3773, 4172).

[106] See Letter from Green Packing to Secretary of Commerce, "RE: Polyethylene Terephthalate (PET) Film from China," dated April 9, 2013, at Exhibit SA-6, page 62 (chart of accounts for PET chips showing separate accounts for bonded PET chips and other PET chips).

[107] Letter from Green Packing to Secretary of Commerce, "RE: Polyethylene Terephthalate (PET) Film from China," dated May 3, 2013, at Exhibits SD-1a, SD-1b, and SD-10c (warehouse ledgers and slips, and PET chip subledger supporting Green Packing's claim that bonded imported PET chips are tracked in its accounting system).

[108] See, e.g., Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products From the People's Republic of China, 71 FR 19695, 19703 (April 17, 2006), unchanged in Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China, 71 FR 53079 (September 8, 2006).

FOPs using the actual price paid for the input.[109] To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available SVs.[110] In selecting SVs, we considered the quality, specificity, and contemporaneity of the SV data on the record.[111] As appropriate, we adjusted input SVs by including freight costs to make them delivered prices. Specifically, we added to import SVs the surrogate inland freight cost using the shorter of the reported distance from the domestic supplier to the factory that produced the subject merchandise or the distance from the nearest port to the factory that produced the subject merchandise, where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in Sigma Corp.[112]

For the preliminary results, we used data from the Indonesian import statistics in the GTA and other publicly available Indonesian sources in order to calculate SVs for Green Packing's and Wanhua's FOPs (i.e., direct materials and packing materials) and certain movement expenses.[113] As noted above, when selecting the best available information for valuing FOPs, the Department's practice is to select, to the extent practicable, SVs which are non-export average values, contemporaneous with the POR or closest in time to the POR, product-specific, and tax-exclusive.[114] The record shows that Indonesian import statistics obtained through GTA are contemporaneous with the POR, product-specific, and tax-exclusive.[115] In those instances where we could not obtain publicly available information contemporaneous with the POR with which to value FOPs, we adjusted the SVs using inflation indices. Specifically, we adjusted truck freight using the Indonesian producer price index, and adjusted the labor rate using the consumer price index, as published by the International Monetary Fund (available at http://elibrary-data.imf.org/).

In accordance with legislative history, the Department continues to apply its long-standing practice of disregarding SVs if it has a reason to believe or suspect the source data may be subsidized or dumped.[116] In this regard, the Department has previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea, and Thailand because we have determined that these countries maintain broadly available, non-industry specific export

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[109] See 19 CFR 351.408(c)(1); see also Shakeproof Assembly Components Div of III Tool Works v. United States, 268 F. 3d 1376, 1382-1383 (Fed. Cir. 2001) (affirming the Department's use of market-based prices to value certain FOPs).
[110] See Surrogate Value Memorandum.
[111] See, e.g., Fresh Garlic From the People's Republic of China: Final Results of Antidumping Duty New Shipper Review, 67 FR 72139 (December 4, 2002), and accompanying Issues and Decision Memorandum at Comment 6; and Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms From the People's Republic of China, 66 FR 31204 (June 11, 2001), and accompanying Issues and Decision Memorandum at Comment 5.
[112] See Sigma Corp. v. United States, 117 F.3d 1401, 1407-08 (Fed. Cir. 1997) ("Sigma Corp.").
[113] See Surrogate Value Memorandum at 2.
[114] See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam, 69 FR 42672, 42682 (July 16, 2004), unchanged in Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam, 69 FR 71005 (December 8, 2004).
[115] See Surrogate Value Memorandum.
[116] See Omnibus Trade and Competitiveness Act of 1988, Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) at 590.

subsidies.[117] Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, the Department finds that it is reasonable to infer that all exporters from India, Indonesia, South Korea and Thailand may have benefitted from these subsidies. Therefore, the Department has not used prices from India, Indonesia, South Korea and Thailand in calculating the import-based SVs.

Additionally, in selecting import data for SVs, we disregarded prices from NME countries.[118] Finally, imports that were labeled as originating from an "unspecified" country were excluded from the average value, because the Department could not be certain that they were not from either an NME country or a country with generally available export subsidies.[119]

Green Packing contends that PET chip import data from Thailand and Indonesia are not the appropriate measure of the value of PET chips because they fail to classify the imported products by grade.[120] Green Packing states that Petitioners have previously recognized the "enormous range" in grade and value of PET chips.[121] Furthermore, Green Packing argues that the PET chips used in the production of PET film are of the lowest grade and therefore valuing PET chips based on import data for a higher-grade of PET chip would distort the value.[122] Green Packing claims that the disparity in the prices of high and low grade PET chips can be seen by comparing the prices of PET imports into Indonesia from Japan, which it claims are imports of very high grade, compared to the price of imports into Japan from Indonesia, which it claims are of a much lower grade.[123]

Green Packing's assertions regarding the quality of PET chips used for PET film, and the nature of PET chips imported into Thailand, Indonesia and Japan, are unsupported by the record. Green Packing bears the burden to prove the inadequacy of the SV data which it argues against, or alternatively, to show that the use of other SV data is more appropriate.[124] Green Packing has

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[117] See, e.g., Carbazole Violet Pigment 23 from India: Final Results of the Expedited Five-year (Sunset) Review of the Countervailing Duty Order, 75 FR 13257 (March 19, 2010), and accompanying Issues and Decision Memorandum at 4-5; Certain Cut-to-Length Carbon-Quality Steel Plate from Indonesia: Final Results of Expedited Sunset Review, 70 FR 45692 (August 8, 2005), and accompanying Issues and Decision Memorandum at 4; Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review, 74 FR 2512 (January 15, 2009), and accompanying Issues and Decision Memorandum at 17, 19-20; Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From Thailand, 66 FR 50410 (October 3, 2001), and accompanying Issues and Decision Memorandum at 23.
[118] See, e.g., Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final determination, 74 FR 9591, 9600 (March 5, 2009), unchanged in Certain Kitchen Appliance Shelving and Racks From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 74 FR 36656 (July 24, 2009) and Certain Kitchen Appliance Shelving and Racks from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Notice of Antidumping Duty Order, 74 FR 46971 (September 14, 2009).
[119] Id.
[120] See Letter from Green Packing to Secretary of Commerce, "Polyethylene Terephthalate (PET) Film from China: Green Packing Surrogate Rebuttal Comments (May 10, 2013) ("Green Packing Rebuttal") at 1.
[121] See Green Packing Rebuttal at 1.
[122] Id. at 2.
[123] Id. at 3.
[124] See Tapered Roller Bearings and Parts Thereof Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review, 74 FR 3987 (January 22, 2009) ("TRBs/PRC (January 2009"), and accompanying Issues and Decision Memorandum at Comment 6; see also Laminated Woven Sacks

not made such a demonstration here. The only information on the record (submitted by Wanhua[125]) for valuing PET chips, other than import prices, specifically pricing data from spot resin markets, are not specific to any country. Pursuant to 19 CFR 351.408(c)(2), the Department typically does not use data of this type to value FOPs, but rather uses publicly-available data from a single country. Moreover, Green Packing has not provided any evidence that the PET chips used for PET film are of the lowest grade; nor is there any evidence on the record regarding the grade of PET chips imported into Indonesia from all exporting countries. Thus, Green Packing has provided an insufficient factual basis for the Department to consider using SV data other than Indonesian import prices, which are tax-exclusive, contemporaneous, broad-market averages from the surrogate country, to value PET chips. Even if the Department could identify certain grades of PET chips in the import data, excluding certain imports from our valuation of PET chips would contradict the Department's clear and well-established preference of using the full GTA dataset.[126] This practice ensures an accurate SV based on a broad dataset and avoids the problems that would ensue if parties were able to argue for a subset of cherry-picked import data in an SV calculation. The Department has "found WTA {GTA} import data to represent the best information available for valuation purposes because when taken as a whole -- after excluding non-market, unspecified, and subsidized data points -- they represent an average of multiple price points within a specific period and are tax-exclusive."[127]

Labor

In keeping with the methodology outlined in Labor Methodologies, we attempted to value labor using single-country labor cost and compensation data from Chapter 6A of the International Labor Organization ("ILO").[128] However, in this case, Chapter 6A does not contain recent Indonesian labor data from the ILO Yearbook; the data are from 2008. Therefore, for the preliminary results of this administrative review, the Department is valuing labor using an Indonesian industry-specific wage rate based on labor cost and compensation data from Chapter 5B of the ILO. Specifically, the Department has calculated the wage rate using data provided to the ILO under Sub-Classification 24 of the ISIC-Revision 3-D standard, and inflated this wage rate using the Indonesian Consumer Price Index as published in the International Monetary Fund's International Financial Statistics. The Department finds the description under Sub-Classification 24 of the ISIC-Revision 3-D ("Manufacture of Chemicals and Chemical

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from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 35646 (June 24, 2008), and accompanying Issues and Decision Memorandum at Comment 2, Polyethylene Retail Carrier Bags from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Review, 73 FR 14216 (March 17, 2008), and accompanying Issues and Decision Memorandum at Comment 6, Steel Wire Garment Hangers from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 73 FR 47587 (August 14, 2008), and accompanying Issues and Decision Memorandum at Comment 4, Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 40485 (July 15, 2008), and accompanying Issues and Decision Memorandum at Comment 10.

[125] See Wanhua Comments at Exhibit SC-4.

[126] See AR3 Final at Issue 2; TRBs/PRC (January 2009), and accompanying Issues and Decision Memorandum at Comment 7.

[127] See TRBs/PRC (January 2009), and accompanying Issues and Decision Memorandum at Comment 7.

[128] See Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, 76 FR 36092 (June 21, 2011) ("Labor Methodologies").

Products") to be the best available wage rate SV source on the record because it is specific and derived from industries that produce merchandise comparable to the subject merchandise. A full description of the industry-specific wage rate calculation methodology is provided in the Surrogate Value Memorandum.[129]

Surrogate Financial Ratios

According to 19 CFR 351.408(c)(4), the Department is directed to value overhead, selling, general and administrative ("SG&A") expenses, and profit using non-proprietary information gathered from producers of identical or comparable merchandise in the surrogate country. For valuing factory overhead, SG&A and profit, the record contains the audited financial statements for the year ending December 2011 of Argha Karya, and Trias, producers of identical merchandise from Indonesia, and Astrapak, a producer of comparable merchandise from South Africa. When selecting surrogate financial statements, the Department prefers financial statements from companies that produce identical merchandise over companies that produce comparable merchandise, because it is the Department's preference to match the surrogate companies' production experience with respondents' production experience, provided that the surrogate value data are not distorted or otherwise unreliable.[130] In addition, as stated above in the Surrogate Country and Surrogate Value Data section of this notice, we have determined to use Indonesia as the primary surrogate country. Thus, the Department will not use the financial statements of Astrapak because there are other financial statements on the record for producers of identical merchandise from the primary surrogate country.[131]

After reviewing the financial statements of Trias, the Department finds that it contains the consolidated results of PET film manufacturing companies located in an NME, the PRC.[132] Specifically, Trias' largest consolidated subsidiary is Tianjin Sunshine Plastics Co., Ltd., which manufactures and sells PET film in Tianjin, PRC. Because these financial statements represent the manufacturing and sales experience of companies located in an NME, we preliminarily find the possibility for distortion in the calculation of the surrogate factory overhead, SG&A and profit. Accordingly, and consistent with prior practice, because other useable financial statements are available on the record, we have not considered the Trias' financial statements.[133] After reviewing the financial statements of Argha Karya, the Department notes that Argha Karya

[129] See Surrogate Value Memorandum at 5.
[130] See Hand Trucks and Certain Parts Thereof From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2010-2011, 78 FR 28801 (May 16, 2013) and accompanying Issues and Decision Memorandum at Comment 2; Certain Kitchen Appliance Shelving and Racks From the People's Republic of China; 2010-2011; Final Results of Antidumping Duty Administrative Review, 78 FR 5414 (January 25, 2013), and accompanying Issues and Decision Memorandum at Comment 1.
[131] See 19 CFR 351.408(c)(2) (expressing the Department's preference of normally valuing all factors in a single surrogate country, except for labor); see also Clearon Corp. v. United States, 35 Int'l Trade Rep. (BNA) 1013 (Ct. Int'l Trade Feb. 20, 2013) (where the court found that the Department selected proper surrogate data in an antidumping review to value urea as a factor of production of chlorinated isocyanurates imported from a non-market economy since the use of a single surrogate country was appropriate, and there was no evidence that import prices of urea were not market-driven or distorted by any government involvement).
[132] See Letter from Respondent Green Packing to Secretary of Commerce, "Polyethylene Terephthalate (PET) Film from China (April 30, 2013) at Exhibit 2 (Trias financial statements at 8).
[133] See AR3 Preliminary Results, Factor Valuations section (where the Department made the same determination to exclude the Trias financial statements due to the NME subsidiary), unchanged in AR3 Final.

has one foreign subsidiary, i.e., International Resources (H.K.) Ltd. ("IR") (Hong Kong).[134] IR is located in Hong Kong, which the Department does not consider to be an NME.[135] The principal activity of IR is the marketing and trading of films.[136] Thus, the Department preliminarily finds that the possibility for distortion in the calculation of the surrogate financial ratios does not exist for Argha Karya and the Department has valued factory overhead, SG&A and profit using Argha Karya's financial statements.[137] The Department may consider other publicly available financial statements for the final results, as appropriate.

Since we were unable to segregate and exclude energy costs from the calculation of the surrogate financial ratios using Argha Karya's financial statements, we have disregarded the energy inputs (electricity and steam) and water of both Green Packing and Wanhua in the calculation of NV, in order to avoid double-counting these costs that have necessarily been captured in the surrogate financial ratios, in the preliminary results.[138]

By-products

Green Packing and Wanhua reported that they recovered PET by-products in their production of subject merchandise, and both companies claimed that each has commercial value.[139] It is the Department's practice to grant respondents an offset to the reported FOPs for by-products generated during the production of the merchandise under consideration if evidence is provided that such by-product has commercial value.[140] The Department recently explained its practice as follows: "the by-product offset is limited to the total production quantity of the byproduct … produced during the POR, so long as it is shown that the byproduct has commercial value."[141]

Wanhua reported specific quantities of reintroduced PET by-product material required to manufacture one metric ton of subject merchandise.[142] Wanhua's reported reintroduced PET by-

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[134] See Petitioners' SC Comments at Exhibit 4 (Argha Karya financial statements at 9).
[135] The Department considers Hong Kong to be a market economy for antidumping duty purposes and, absent evidence to the contrary, treats the trade activity to and from Hong Kong as market-economy-oriented. See Application of U.S. Antidumping and Countervailing Law to Hong Kong, 62 FR 42965 (August 11, 1997).
[136] See Petitioners' SC Comments at Exhibit 4 (Argha Karya financial statements at 9).
[137] See Surrogate Value Memorandum; see also Memorandum to the File from Jonathan Hill and Thomas Martin to Howard Smith, regarding "Fourth Administrative Review of the Antidumping Duty Order on Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Analysis of the Preliminary Results Margin Calculation for Shaoxing Xiangyu Green Packing Co., Ltd.," dated concurrently with this memorandum ("Green Packing Analysis Memorandum"); Wanhua Analysis Memorandum.
[138] See AR3 Final at Issue 2.
[139] See Letter from Green Packing to Secretary of Commerce, "RE: Polyethylene Terephthalate (PET) Film from China," dated August 27, 2013 ("Green Packing August 27, 2013 Submission"); See Letter from Wanhua to Hon. Penny Pritzker, "Re: Polyethylene Terephthalate (PET) Film from the People's Republic of China; A-570-924; Section D Supplemental Questionnaire Response by Tianjin Wanhua Co., Ltd.," dated August 27, 2013.
[140] See AR3 Final at Issue 10.
[141] See Frontseating Service Valves From the People's Republic of China: Final Results of the 2008-2010 Antidumping Duty Administrative Review of the Antidumping Duty Order, 76 FR 70706 (November 15, 2011) ("Frontseating Service Valves"), and accompanying Issues and Decision Memorandum at Comment 18.
[142] See Letter from Wanhua to Secretary Penny Pritzker, "Polyethylene Terephthalate (PET) Film from the People's Republic of China; A-570-924; Second Supplemental Section D Response by Tianjin Wanhua Co., Ltd.," dated July 8, 2013 ("Wanhua July 8, 2013 Response") at 1-2; Letter from Wanhua to Hon. Penny Pritzker, "Polyethylene Terephthalate (PET) Film from the People's Republic of China; A-570-924; Section D Supplemental Questionnaire

product material is based on the actual quantity consumed from its records.[143] Wanhua also reported that it sold PET scrap by-products, during the POR.[144] Wanhua reported PET by-product material generated during production based on the actual quantity of the by-product generated as supported by its records.[145] Consequently, we are valuing Wanhua's reintroduced PET by-product material as an FOP in order to capture all reported FOPs in accordance with section 773(c)(3)(B) of the Act and also granting Wanhua an offset to production costs for by-product material generated during production where the quantity of such material generated is supported by record evidence.[146]

Green Packing estimated the quantity of PET by-product material reintroduced into production. Specifically, for each product, Green Packing divided the product-specific standard consumption for reintroduced PET material by the product-specific standard consumption for virgin bright PET chips and multiplied the result by the product-specific quantity of virgin bright PET chips consumed to determine the quantity of PET by-product material used.[147] We have reviewed Green Packing's estimate of the quantity of PET by-product material reintroduced into production and find it to be reasonable and appropriately based on the company's records. Thus we accepted Green Packing's estimate. Although Green Packing argued that the PET by-product material that is reintroduced into production should not be valued because the quantity of PET by-product material reintroduced into production equals the quantity of PET by-product material generated during production, this material is an FOP and section 773(c)(3)(B) of the Act requires the Department to value the "quantities of raw materials employed." Because the statute requires that we value all FOPs, if the Department did not include the value of the PET by-product material reintroduced into production in NV it would result in an incomplete NV calculation. Furthermore, including Green Packing's reintroduced PET chip input in the cost of direct materials follows the practice from the most recently completed administrative review in this proceeding.[148]

Green Packing has not demonstrated its entitlement to a by-product offset because it cannot support the amount of the PET by-product material generated during production using its books and records. Thus, this situation is similar to the most recently completed third administrative review where the Department declined to grant a respondent a by-product offset in similar circumstances.[149] Green Packing reported three by-products, waste film, waste chip, and waste bag, which were sold during the POR,[150] and an additional PET by-product that is reintroduced, as noted above.[151] Green Packing reported that it does not record the quantity of PET by-product

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Response by Tianjin Wanhua Co., Ltd.," dated August 27, 2013 ("Wanhua August 27, 2013 Response") at 1.
143 See Wanhua July 8, 2013 Response at 2-3, 10-11; Wanhua August 27, 2013 Response at 2.
144 See Letter from Wanhua to Dr. Rebecca Blank, "Re: Polyethylene Terephthalate (PET) Film from the People's Republic of China; A-570-924; Section C and D Response by Tianjin Wanhua Co., Ltd.," dated March 21, 2013 at D-18 and Exhibit D-11.
145 See Wanhua August 27, 2013 Response at 2.
146 See 19 CFR 351.401(b)(1).
147 See Letter from Green Packing to the Secretary of Commerce, "RE: Polyethylene Terephthalate (PET) Film from China," dated July 8, 2013 at Exhibit S3D-5.
148 See AR3 Final at Issue 5.
149 Id.
150 See Letter from Green Packing to Secretary of Commerce, "RE: Polyethylene Terephthalate (PET) Film from China," dated March 29, 2013, at D-15.
151 See Letter from Green Packing to Secretary of Commerce "RE: Polyethylene Terephthalate (PET) Film from

material generated during production in its books.[152] However, in an FOP database that it submitted to the Department, and in an exhibit to one of its submissions to the Department, Green Packing employed two methodologies for reporting a by-product offset for PET material that is generated during production. For the reasons discussed below, we find that neither of these methodologies is reasonable.

In the FOP database submitted with Green Packing's August 2, 2013 submission, Green Packing's approach was to assume that the CONNUM-specific quantity of PET by-product material generated during production is equal to the CONNUM-specific quantity of PET by-product material reintroduced into production.[153] Green Packing's own standard input ratios support a finding that each CONNUM has precise quantities of PET by-product material that can be reintroduced into production.[154] However, there is no indication that the by-product material generated during production of a particular product (such as through waste or losses) is, or can be, controlled such that the amount generated is exactly the same as the amount called for during production. Thus, there is no evidence on the record to support the proposition that the quantity of by-product reintroduced into production for any given CONNUM will have any bearing on the quantity of by-product generated from production of the CONNUM.[155]

Alternatively, in Exhibits S4D-2 and S4D-3 of Green Packing's August 2, 2013 submission, Green Packing evenly allocated the calculated total PET by-product material reintroduced into its "processing trade" production, and its "normal trade" production, during the POR over all CONNUMs and considered this allocated amount to be the PET by-product material generated in producing each CONNUM.[156] Green Packing's approach appears to be based on its reasoning that the production process for each CONNUM is roughly the same.[157] However, just as with Green Packing's first approach, while essentially all of the PET by-product material is likely reentered into production at some point, there is no basis to believe that all of the PET by-product material reintroduced into production during the POR was also generated during the POR.

The applicable regulation, 19 CFR 351.401(b)(1), states that "(t)he interested party that is in possession of the relevant information has the burden of establishing to the satisfaction of the Secretary the amount and nature of a particular adjustment." Green Packing has not met this standard because both of its methodologies merely manipulate the theoretical quantity of reintroduced PET by-product material, and recharacterize it as a theoretical quantity of generated PET by-product material. Green Packing's first methodology suggests that each product generates from its production the same amount of PET by-product material that is required to produce it. Green Packing's second methodology suggests that all products generate and consume PET by-product material equally within the span of the POR. However, as stated above, there is no basis for the Department to consider that reintroduced PET by-product

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China," dated August 2, 2013 ("Green Packing August 2, 2013, Submission") at Exhibit S3D-3.

[152] See Green Packing August 27, 2013 Submission at 2.

[153] See Green Packing August 2, 2013, Submission, FOP database.

[154] See Green Packing August 2, 2013, Submission at Exhibits S4D-2.

[155] See e.g., AR3 Final at Issue 5 (where the Department disagreed with a respondent's contention that the by-product generated from production will match, or even roughly correspond to, the by-product used as an input).

[156] See Green Packing August 2, 2013, Submission, FOP Database.

[157] See Green Packing August 27, 2013 Submission, at 5-6.

material and generated PET by-product material should be equal during the POR for Green Packing, either on a product-specific basis, as with the first approach, or over all products produced during the POR, as with the second approach. Moreover, Green Packing has reported that it has no records with which to support any such determination.[158]

Market-Economy Purchases

When a NME producer purchases inputs from a ME and pays for the inputs with a ME currency, the Department normally uses the average actual price paid by the NME producer for these inputs to value the input in question.[159] In instances where the NME producer purchases a portion of its inputs from a ME supplier with a ME currency, the Department will use the ME average actual purchase price to value the entire input when the total volume of the ME input purchased from all ME sources during the period of investigation or review exceeds 33 percent of the total volume of the input purchased from all sources during the period.[160] In instances where the total volume of the input purchased is below 33 percent, the Department will weight-average the weighted-average ME purchase price with an appropriate SV according to their respective shares of the total volume of purchases, unless case-specific facts provide adequate grounds to rebut the presumption.[161] The Department disregards ME input purchases when there is evidence that the prices for such inputs may be distorted or when the facts of a particular case otherwise demonstrate that ME input purchase prices are not the best available information.[162] Green Packing provided evidence of ME purchases during the POR of some inputs, and the Department applied Green Packing's ME purchases in valuing certain FOPs.[163]

Currency Conversion

Where appropriate, the Department made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

We intend to issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

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[158] Id. at 5.
[159] See 19 CFR 351.408(c)(1).
[160] See Antidumping Methodologies, 71 FR at 61717-61718.
[161] Id.
[162] Id.
[163] See Green Packing Analysis Memorandum.

CONCLUSION

We recommend applying the above methodology for these preliminary results.

✓
Agree Disagree

Ronald K. Lorentzen

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

December 18, 2013
Date