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November 27, 2017

MEMORANDUM TO: Carole Showers
Executive Director, Office of Policy
performing the duties of the Deputy Assistant Secretary
for Enforcement and Compliance

FROM: James Maeder
Senior Director
performing the duties of Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of the 2015-2016 Antidumping Duty Administrative Review: Lightweight Thermal Paper from the People's Republic of China

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I. SUMMARY

The Department of Commerce (the Department) is conducting an administrative review (AR) of the antidumping duty order on lightweight thermal paper (LWTP) from the People's Republic of China (PRC). The review covers three exporters of subject merchandise: Shenzhen Formers Printing Co., Ltd. (Formers), Sailing International Limited (Sailing), and Suzhou Xiandai Paper Production Co (Xiandai). The period of review (POR) is November 1, 2015, through October 31, 2016.

As discussed below, after analyzing the information provided by parties and gathered by the Department, the Department preliminarily finds that Formers, Sailing, and Xiandai have not demonstrated individually their eligibility for a separate rate in this segment of the proceeding, and, therefore, for the preliminary results, we are treating Formers, Sailing, and Xiandai as part of the PRC-wide entity.

If these preliminary results are adopted in our final results, 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. Unless the deadline is extended, we expect to issue the 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).

II. BACKGROUND

On November 30, 2016, the Department received a request from Appvion, Inc. (the petitioner) for an administrative review in the above referenced case.[1] On January 13, 2017, the Department initiated the eighth administrative review of the antidumping duty order on LWTP from the PRC on three exporters: Formers, Sailing, and Xiandai.[2] In the *Initiation Notice*, the Department stated that all firms identified in the notice that wished to qualify for separate rate status in the administrative review must complete either a separate rate application or certification, due to the Department no later than 30 calendar days after the publication of the notice, *i.e.,* February 13, 2017.[3] Alternatively, as per the *Initiation Notice,* if a producer or exporter had no exports, sales or entries during the POR, it was required to notify the Department no later than 30 calendar days after the publication of the notice, *i.e.* February 13, 2017.[4]

None of the respondents—Formers, Sailing, and Xiandai timely submitted either a complete separate rate application, separate rate certification, or a claim of "no shipments." Nevertheless, per our practice, on March 16, 2017, the Department uploaded and released onto the administrative record of this proceeding an antidumping questionnaire to each company. However, due to an inadvertent oversight, the Department did not serve a physical copy of the questionnaire to any of the respondents, as is the Department's practice when foreign firms are not represented by counsel in the United States or representatives thereof have not otherwise contacted the Department, and thus, the Department was unable to confirm whether parties received the questionnaire.

On July 28, 2017, the Department reissued the antidumping questionnaire to Formers, Sailing and Xiandai, served physical copies of the questionnaires on all the respondents in accordance with its standard practice, and extended the due date of the questionnaire responses for section A, and sections C and D until August 14 and 30, 2017, respectively.[5] Accordingly, on July 26, 2017, the Department extended the time limit for the preliminary results by 120 days to November 30, 2017.[6] Sailing and Xiandai did not respond to the Department's questionnaire.

Between August and September 2017, Formers provided a response to sections A and D of the Department's questionnaire.[7] However, Formers did not provide a response to section C of the questionnaire. On September 5, 2017, we notified Formers that it had not submitted a response to section C of the Department's questionnaire or timely requested an extension of the deadline.[8]

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[1] *See* Petitioner's Letter, "Lightweight Thermal Paper from The People's Republic of China: Request for Administrative Review" dated November 30, 2016.
[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 4294 (January 13, 2017) (*Initiation Notice*).
[3] *Id.*, 82 FR at 4295.
[4] *Id.*
[5] *See* Memorandum, "Due Date to Respond to the Department's Initial Questionnaire," dated July 28, 2017.
[6] *See* Memorandum, "Lightweight Thermal Paper from the People's Republic of China: Extension of Deadline for Preliminary Results of the 2015-2016 Antidumping Duty Administrative Review" dated July 26, 2017.
[7] *See* Formers' Letter, "Administrative Review. Response to Questionnaire, Section A," undated, submitted August 3, 2017 (Formers AQR), and Formers' Letter, "Administrative Review. Response to Questionnaire, Section D," undated, submitted September 6, 2017 (Formers DQR).
[8] *See* Memorandum, "Second Request for Extension of Deadline for the Submission of Shenzhen Formers Printing Co., Ltd.'s Response to Section D of the Initial Questionnaire," dated September 5, 2017 (Second DQR Extension).

On September 6, 2017, Formers submitted a response to our September 5, 2017, memorandum, in which it stated it is a manufacturer of subject merchandise not an exporter and, thus, not required to submit a response to section C of the Department's questionnaire.[9] On September 7, 2017, the Department requested CBP import data of suspended antidumping/countervailing duty (AD/CVD) entries manufactured and/or exported by Sailing, Formers, or Xiandai during the POR. On September 11, 2017, the Department received a response to its request (and accompanying data file), indicating that there were no responsive entries during the above-referenced administrative review.[10] On September 11, 2017, we also sent a supplemental questionnaire in which we instructed Formers to reconcile its statement in its Clarification Letter that it was not an exporter of subject merchandise and had no sales to the United States during the POR with information, yet, as part of its section A questionnaire response, Formers provided quantity and value of sales and sample U.S. sales documentation showing Formers as the shipper and seller and provided an Excel spreadsheet detailing U.S. sale invoices.[11] Formers did not respond to our request for supplemental information.

III. SCOPE OF THE ORDER

The merchandise covered by this order includes certain lightweight thermal paper, which is thermal paper with a basis weight of 70 grams per square meter (g/m2) (with a tolerance of ± 4.0 g/m2) or less; irrespective of dimensions;[12] with or without a base coat[13] on one or both sides; with thermal active coating(s)[14] on one or both sides that is a mixture of the dye and the developer that react and form an image when heat is applied; with or without a top coat;[15] and without an adhesive backing. Certain lightweight thermal paper is typically (but not exclusively) used in point-of-sale applications such as ATM receipts, credit card receipts, gas pump receipts, and retail store receipts. The merchandise subject to this order may be classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 3703.10.60, 4811.59.20, 4811.90.8040, 4811.90.9090, 4820.10.20, 4823.40.00, 4811.90.8030, 4811.90.8050,

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[9] *See* Formers' Letter, "Re: Reason not to answer Section C," undated, submitted September 6, 2017 (Clarification Letter); *see also* memorandum to the file "Email Correspondence," dated September 6, 2017.

[10] *See* Memorandum, U.S. Customs and Border Protection Import Data," dated September 11, 2017, at Attachment 1.

[11] *See* Department Letter re: 2015-2016 Administrative Review of the Antidumping Duty Order on Lightweight Thermal Paper from the People's Republic of China: First Supplemental Section A Questionnaire, dated September 11, 2017 (Formers SAQ); *see also* Formers' Excel spreadsheet FORMUS08, dated September 6, 2017.

[12] LWTP is typically produced in jumbo rolls that are slit to the specifications of the converting equipment and then converted into finished slit rolls. Both jumbo and converted rolls (as well as LWTP in any other form, presentation, or dimension) are covered by the scope of these orders.

[13] A base coat, when applied, is typically made of clay and/or latex and like materials and is intended to cover the rough surface of the paper substrate and to provide insulating value.

[14] A thermal active coating is typically made of sensitizer, dye, and co-reactant.

[15] A top coat, when applied, is typically made of polyvinyl acetone, polyvinyl alcohol, and/or like materials and is intended to provide environmental protection, an improved surface for press printing, and/or wear protection for the thermal print head.

4811.90.9030, and 4811.90.9050.[16,17] Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

IV. DISCUSSION OF THE METHODOLOGY

A. Non-Market Economy Country Status

The Department considers the PRC to be a non-market economy (NME) country.[18] 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 Department. Therefore, we continue to treat the PRC as an NME country for purposes of this preliminary determination. In addition, because no party requested a review of the PRC-wide entity, the entity is not under review.

B. Separate Rates

There is a rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single antidumping duty (AD) rate.[19] It is our policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate that it is sufficiently independent so as to be entitled to a separate rate. In the *Initiation Notice*, we notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings.[20] We also informed parties that exporters and producers who submit a separate rate application (SRA) or certification and subsequently are examined as a respondent, would no longer be eligible for separate rate status unless they responded to all parts of the questionnaire.[21]

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[16] HTSUS subheading 4811.90.8000 was a classification used for LWTP until January 1, 2007. Effective that date, subheading 4811.90.8000 was replaced with 4811.90.8020 (for gift wrap, a non-subject product) and 4811.90.8040 (for "other" including LWTP). HTSUS subheading 4811.90.9000 was a classification for LWTP until July 1, 2005. Effective that date, subheading 4811.90.9000 was replaced with 4811.90.9010 (for tissue paper, a non-subject product) and 4811.90.9090 (for "other," including LWTP).

[17] As of January 1, 2009, the International Trade Commission deleted HTSUS subheadings 4811.90.8040 and 4811.90.9090 and added HTSUS subheadings 4811.90.8030, 4811.90.8050, 4811.90.9030, and 4811.90.9050 to the *Harmonized Tariff Schedule of the United States (2009)*. *See Harmonized Tariff Schedule of the United States (2009)*, available at ww.usitc.gov. These HTSUS subheadings were added to the scope of the order in LWTP's LTFV investigation.

[18] *See Antidumping Duty Investigation of Certain Aluminum Foil from the People's Republic of China: Affirmative Preliminary Determination of Sales at Less-Than-Fair Value and Postponement of Final Determination*, 82 FR 50858, 50861 (November 2, 2017) and accompanying decision memorandum, *China's Status as a Non-Market Economy*.

[19] *See 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); *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances*, 71 FR 29303, 29307 (May 22, 2006).

[20] *See Initiation Notice*, 82 FR at 4295.

[21] *Id.*

As stated in the *Initiation Notice*, in order to qualify for a separate rate, an exporter of merchandise subject to an administrative review in an NME country must complete a separate rate application.[22] The instructions therein provide:

> "{T}o be considered for separate-rate treatment, the applicant must have a relevant U.S. sale of subject merchandise to an unaffiliated purchaser, and, for an administrative review, the applicant also *must have a suspended entry of subject merchandise* into the United States during POR. The sale to an unaffiliated purchaser generally must be during the period of investigation or review, or, in a review, a sale related to a suspended POR entry."[23]

Additionally, in lieu of filing a separate rate application, the Department has allowed respondents selected for individual examination to not file a SRA, and instead, submit its separate rate information in their response to the Department's antidumping questionnaire, *i.e.*, section A of the questionnaire. The instructions therein provide:

> "{a}pplicants which have been selected as mandatory respondents prior to the deadline for submission of SRAs are not required to file a SRA. Additionally, mandatory respondents are required to file full section A questionnaire responses, including all separate rate information, and cannot refer to or substitute information or supporting documentation submitted in a separate rate application."[24]

As stated above, the Department served its initial AD Questionnaire to all three mandatory respondents (Formers, Sailing, and Xiandai) on July 28, 2017. Both Sailing and Xiandai failed to respond to the Department's questionnaire and further failed to submit a separate rate application by the established deadline;[25] thus, we find that Sailing and Xiandai have not established their eligibility for separate rate status and are part of the PRC-wide entity.

In Formers' AQR, it certified that it made export sale(s) of subject merchandise to the United States during the POR.[26] Formers provided sample sale and shipping documentation demonstrating that the shipment to which it referred was based on sales of subject merchandise during the POR.[27] On September 4, 2017, Formers submitted an extension request to respond to section D of the Department's initial questionnaire.[28] In response to Formers' request, the Department noted that the deadline for submitting a response to section C of the Department's questionnaire had passed, and Formers had neither submitted a response nor an extension request.[29] On September 6, 2017, Formers submitted a letter stating that it did not submit a section C response because "only exporters are required to respond to section C (Sales to the

[22] *See Initiation Notice,* 82 FR at 4295 (noting the Separate Rate Status Application is available on the Department's Web site at http://enforcement.trade.gov/nme/nme-sep-rate.html).
[23] *See* Separate Rate Status Application at 2 (emphasis added).
[24] *Id.* at 2, 4.
[25] *See Initiation Notice,* 82 FR 4295.
[26] *See* Formers AQR at A-1.
[27] *Id.*
[28] *See* Formers' Letter, "Administrative Review: Request for extension of deadline for the submission of Section D" undated, submitted September 4, 2017.
[29] *See* Second DQR Extension

United States), and only manufacturers are required to respond to section D (Factors of Production). . . We are only the manufacturer, not the exporter; therefore, we have not answered section C."[30] On September 11, 2017, the Department provided Formers with the opportunity to clarify discrepancies between what was reported in the AQR and what Formers stated in its Clarification Letter.[31] Formers did not respond.

On September 7, 2017, the Department requested CBP data of suspended AD/CVD entries of subject merchandise during the POR where the entry was associated with Sailing, Formers, or Xiandai. On September 11, 2017, the Department received the results of this query indicating there were no suspended AD/CVD entries during the POR.[32]

The Department has examined all of the information on the record, and finds that notwithstanding Formers' lack of response to the Department's questionnaires, Formers has not established that it has an entry of subject merchandise during the POR. Absent a suspended AD/CVD entry, as outlined in the separate rate application, Formers is not eligible for a separate rate. In addition to the requirement of a suspended AD/CVD entry, we further note that one of the Department's primary functions in the course of an administrative review is to determine the appropriate antidumping duty to assess on subject merchandise.[33] Formers has no suspended AD/CVD entries. Accordingly, consistent with section 751(a)(2)(C) of the Act, the Department is continuing to treat Formers as part of the PRC-wide entity.

Because no party requested a review of the PRC-wide entity, the PRC-wide entity is not under review, and the cash deposit rate and assessment rate for the PRC-wide entity is not subject to change as a result of this administrative review. Therefore, if our determination is unchanged in the final results of this review, these three companies' entries will be liquidated at the rate established in the investigation for the PRC-wide entity, which is 115.29 percent.[34]

[30] *See* Formers Clarification Letter
[31] *See* Formers SAQ.
[32] *See* CBP Import Data
[33] *See* section 751(a)(2)(C) of the Act (stating that one of the purposes of an administrative review is to assess the current amount of antidumping duties on entries of subject merchandise).
[34] *See Antidumping Duty Orders: Lightweight Thermal Paper from Germany and the People's Republic of China*, 73 FR 70959, 70960 (November 24, 2008).

V. RECOMMENDATION

We recommend applying the above methodology for these preliminary results.

☒ ☐

Agree	Disagree

11/27/2017

X Carole Showers

Signed by: CAROLE SHOWERS

Carole Showers
Executive Director, Office of Policy
performing the duties of the Deputy Assistant Secretary
for Enforcement and Compliance