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MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Import Administration

FROM: Gary Taverman
Senior Advisor
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of Antidumping
Duty Administrative Review: Narrow Woven Ribbons with
Woven Selvedge from Taiwan

SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on narrow woven ribbons with woven selvedge (narrow woven ribbons) from Taiwan. The review covers two exporters of the subject merchandise, Intercontinental Skyline and Pacific Imports. The period of review (POR) is September 1, 2011, through August 31, 2012. We have preliminarily assigned these companies an antidumping duty margin based on adverse facts available (AFA) because of their failure to act to the best of their abilities in complying with the Department's request for information in this review.

BACKGROUND

In September 2010, the Department published in the Federal Register an antidumping duty order on narrow woven ribbons from Taiwan.¹ On September 4, 2012, the Department published in the Federal Register a notice of opportunity to request an administrative review of the antidumping duty order on narrow woven ribbons from Taiwan for the period September 1, 2011, through August 31, 2012.² Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b)(1), Berwick Offray LLC and its wholly-owned

¹ See Narrow Woven Ribbons with Woven Selvedge from Taiwan and the People's Republic of China: Antidumping Duty Orders, 75 FR 53632 (Sept. 1, 2010), as amended in Narrow Woven Ribbons With Woven Selvedge From Taiwan and the People's Republic of China: Amended Antidumping Duty Orders, 75 FR 56982 (Sept. 17, 2010).

² See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity To Request Administrative Review, 77 FR 53863, 53864 (Sept. 4, 2012).

subsidiary Lion Ribbon Company, Inc., (the petitioner) requested an administrative review of the antidumping duty order on narrow woven ribbons from Taiwan with respect to the following eight companies: 1) Apex Ribbon; 2) Apex Trimmings Inc. d/b/a Papillon Ribbon & Bow (Canada) (Apex Trimmings); 3) Hubschercorp; 4) Intercontinental Skyline; 5) Multicolor Inc. (Multicolor); 6) Pacific Imports; 7) Supreme Laces, Inc.; and 8) Shienq Huong Enterprise Co., Ltd. / Hsien Chan Enterprise Co., Ltd. / Novelty Handicrafts Co., Ltd. (Shienq Huong). On October 31, 2012, in accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of administrative review of the antidumping duty order on narrow woven ribbons from Taiwan.³

On November 19, 2012, we requested that each company named in the Initiation Notice provide data on the quantity and value (Q&V) of its exports of subject merchandise to the United States during the POR. We received responses to the Q&V questionnaires during the period November 2012 through December 2012. We did not receive a response to the Q&V questionnaire from either Intercontinental Skyline or Pacific Imports. On January 24, 2013, we confirmed that all companies received the Q&V questionnaire.⁴

On January 29, 2013, the petitioner withdrew its request for an administrative review for all companies named in the Initiation Notice except Intercontinental Skyline and Pacific Imports. Accordingly, on March 8, 2013, we rescinded the review with respect to the following companies: 1) Apex Ribbon; 2) Apex Trimmings; 3) Hubschercorp; 4) Multicolor; 5) Shienq Huong; and 6) Supreme Laces Inc.⁵

Since Intercontinental Skyline and Pacific Imports did not respond to the Q&V questionnaire, in accordance with sections 776(a)(2)(A), (B) and (C) of the Act, for these preliminary results, the Department has applied facts otherwise available with an adverse inference pursuant to section 776(b) of the Act when determining Intercontinental Skyline's and Pacific Imports' rate. See the "Discussion of the Methodology" section, below, for further discussion.

SCOPE OF THE ORDER

The scope of this order covers narrow woven ribbons with woven selvedge, in any length, but with a width (measured at the narrowest span of the ribbon) less than or equal to 12 centimeters, composed of, in whole or in part, man-made fibers (whether artificial or synthetic, including but not limited to nylon, polyester, rayon, polypropylene, and polyethylene terephthalate), metal threads and/or metalized yarns, or any combination thereof. Narrow woven ribbons subject to the order may:

³ See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 77 FR 65858, 65860 (Oct. 31, 2012) (Initiation Notice).

⁴ See the January 24, 2013, Memorandum to the File From David Crespo, Analyst, entitled, "Placing E-mail Correspondence and Fedex Shipping Confirmations on the Record of the 2011-2012 Antidumping Duty Administrative Review on Narrow Woven Ribbons with Woven Selvedge from Taiwan" (Correspondence and Confirmation Memorandum to the File).

⁵ See Narrow Woven Ribbons With Woven Selvedge From Taiwan: Rescission, in Part, of Antidumping Duty Administrative Review, 78 FR 14963 (Mar. 8, 2013).

- also include natural or other non-man-made fibers;
- be of any color, style, pattern, or weave construction, including but not limited to single-faced satin, double-faced satin, grosgrain, sheer, taffeta, twill, jacquard, or a combination of two or more colors, styles, patterns, and/or weave constructions;
- have been subjected to, or composed of materials that have been subjected to, various treatments, including but not limited to dyeing, printing, foil stamping, embossing, flocking, coating, and/or sizing;
- have embellishments, including but not limited to appliqué, fringes, embroidery, buttons, glitter, sequins, laminates, and/or adhesive backing;
- have wire and/or monofilament in, on, or along the longitudinal edges of the ribbon;
- have ends of any shape or dimension, including but not limited to straight ends that are perpendicular to the longitudinal edges of the ribbon, tapered ends, flared ends or shaped ends, and the ends of such woven ribbons may or may not be hemmed;
- have longitudinal edges that are straight or of any shape, and the longitudinal edges of such woven ribbon may or may not be parallel to each other;
- consist of such ribbons affixed to like ribbon and/or cut-edge woven ribbon, a configuration also known as an “ornamental trimming;”
- be wound on spools; attached to a card; hanked (i.e., coiled or bundled); packaged in boxes, trays or bags; or configured as skeins, balls, bateaus or folds; and/or
- be included within a kit or set such as when packaged with other products, including but not limited to gift bags, gift boxes and/or other types of ribbon.

Narrow woven ribbons subject to the order include all narrow woven fabrics, tapes, and labels that fall within this written description of the scope of this antidumping duty order.

Excluded from the scope of the order are the following:

- (1) formed bows composed of narrow woven ribbons with woven selvedge;
- (2) “pull-bows” (i.e., an assemblage of ribbons connected to one another, folded flat and equipped with a means to form such ribbons into the shape of a bow by pulling on a length of material affixed to such assemblage) composed of narrow woven ribbons;
- (3) narrow woven ribbons comprised at least 20 percent by weight of elastomeric yarn (i.e., filament yarn, including monofilament, of synthetic textile material, other than textured yarn, which does not break on being extended to three times its original length and which

returns, after being extended to twice its original length, within a period of five minutes, to a length not greater than one and a half times its original length as defined in the Harmonized Tariff Schedule of the United States (HTSUS), Section XI, Note 13) or rubber thread;

- (4) narrow woven ribbons of a kind used for the manufacture of typewriter or printer ribbons;
- (5) narrow woven labels and apparel tapes, cut-to-length or cut-to-shape, having a length (when measured across the longest edge-to-edge span) not exceeding eight centimeters;
- (6) narrow woven ribbons with woven selvedge attached to and forming the handle of a gift bag;
- (7) cut-edge narrow woven ribbons formed by cutting broad woven fabric into strips of ribbon, with or without treatments to prevent the longitudinal edges of the ribbon from fraying (such as by merrowing, lamination, sono-bonding, fusing, gumming or waxing), and with or without wire running lengthwise along the longitudinal edges of the ribbon;
- (8) narrow woven ribbons comprised at least 85 percent by weight of threads having a denier of 225 or higher;
- (9) narrow woven ribbons constructed from pile fabrics (i.e., fabrics with a surface effect formed by tufts or loops of yarn that stand up from the body of the fabric);
- (10) narrow woven ribbon affixed (including by tying) as a decorative detail to non-subject merchandise, such as a gift bag, gift box, gift tin, greeting card or plush toy, or affixed (including by tying) as a decorative detail to packaging containing non-subject merchandise;
- (11) narrow woven ribbon that is (a) affixed to non-subject merchandise as a working component of such non-subject merchandise, such as where narrow woven ribbon comprises an apparel trimming, book marker, bag cinch, or part of an identity card holder, or (b) affixed (including by tying) to non-subject merchandise as a working component that holds or packages such non-subject merchandise or attaches packaging or labeling to such non-subject merchandise, such as a “belly band” around a pair of pajamas, a pair of socks or a blanket;
- (12) narrow woven ribbon(s) comprising a belt attached to and imported with an item of wearing apparel, whether or not such belt is removable from such item of wearing apparel; and
- (13) narrow woven ribbon(s) included with non-subject merchandise in kits, such as a holiday ornament craft kit or a scrapbook kit, in which the individual lengths of narrow woven ribbon(s) included in the kit are each no greater than eight inches, the aggregate amount of narrow woven ribbon(s) included in the kit does not exceed 48 linear inches, none of the

narrow woven ribbon(s) included in the kit is on a spool, and the narrow woven ribbon(s) is only one of multiple items included in the kit.

The merchandise subject to this order is classifiable under the HTSUS statistical categories 5806.32.1020; 5806.32.1030; 5806.32.1050 and 5806.32.1060. Subject merchandise also may enter under subheadings 5806.31.00; 5806.32.20; 5806.39.20; 5806.39.30; 5808.90.00; 5810.91.00; 5810.99.90; 5903.90.10; 5903.90.25; 5907.00.60; and 5907.00.80 and under statistical categories 5806.32.1080; 5810.92.9080; 5903.90.3090; and 6307.90.9889. The HTSUS statistical categories and subheadings are provided for convenience and customs purposes; however, the written description of the merchandise covered by this order is dispositive.

DISCUSSION OF THE METHODOLOGY

Application of Facts Available

Section 776(a) of the Act provides that the Department shall apply “facts otherwise available” if: (1) necessary information is not available on the record; or (2) an interested party or any other person (A) withholds information that has been requested, (B) fails to provide such information by the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides such information but the information cannot be verified as provided by section 782(i) of the Act.

As noted in the “Background” section, above, Intercontinental Skyline and Pacific Imports did not respond to the Department’s Q&V questionnaire. As a result, neither Intercontinental Skyline nor Pacific Imports provided the requested information necessary for the Department to calculate antidumping duty rates for it in this review. See section 776(a)(1) of the Act. Moreover, neither company responded despite our having evidence on the record that the companies received the questionnaires.⁶ Therefore, pursuant to section 776(a) of the Act, the Department has based Intercontinental Skyline’s and Pacific Imports’ antidumping duty rates in these preliminary results on facts otherwise available.

Application of AFA

Section 776(b) of the Act provides that, if the Department finds an interested party has failed to cooperate by not acting to the best of its ability to comply with requests for information, the Department may use an inference that is adverse to the interests of that party in selecting from the facts otherwise available.⁷ Adverse inferences are appropriate “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”⁸

⁶ See the Correspondence and Confirmation Memorandum to the File.

⁷ See, e.g., Notice of Final Results of Antidumping Duty Administrative Review, and Final Determination to Revoke the Order In Part: Individually Quick Frozen Red Raspberries from Chile, 72 FR 70295, 70297 (Dec. 11, 2007).

⁸ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc.

Furthermore, “affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.”⁹ We preliminarily find that Intercontinental Skyline and Pacific Imports did not act to the best of their abilities in this administrative review, within the meaning of section 776(b) of the Act, because they failed to respond to the Department’s request for information and provide timely information. Therefore, an adverse inference is warranted in selecting from the facts otherwise available with respect to these companies. See Nippon, 337 F.3d at 1382-83.

Selection of AFA Rate

In deciding what rate to apply as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from: (1) the petition; (2) a final determination in the investigation; (3) any previous review or determination; or (4) any other information placed on the record.

The Department’s practice, when selecting an AFA rate from among the possible sources of information, has been to select the highest rate on the record of the proceeding and to ensure that the margin is sufficiently adverse “as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.”¹⁰ Specifically, the Department’s practice in reviews, when selecting a rate as total AFA, is to use the highest rate on the record of the proceeding which, to the extent practicable, can be corroborated.¹¹ The Court of International Trade and the Court of Appeals for the Federal Circuit (the CAFC) have affirmed decisions to select the highest margin from any prior segment of the proceeding as the AFA rate on numerous occasions.¹²

In this proceeding, the highest rate is the petition rate of 137.20. In the first administrative review, we assigned this rate as AFA to a similarly uncooperative Canadian reseller of subject

No. 103-316, Vol. 1 (1994) (SAA) at 870.

⁹ See Antidumping Duties; Countervailing Duties: Final Rule, 62 FR 27296, 27340 (May 19, 1997); see also Nippon Steel Corp. v. United States, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003) (Nippon).

¹⁰ See, e.g., Certain Steel Concrete Reinforcing Bars from Turkey: Final Results and Rescission of Antidumping Duty Administrative Review in Part, 71 FR 65082, 65084 (Nov. 7, 2006); see also Narrow Woven Ribbons with Woven Selvedge from Taiwan: Final Results of Antidumping Duty Administrative Review; 2010-2011, 77 FR 72825, 72826 (Dec. 6, 2012), and accompanying Issues and Decision Memorandum at Comment 1 (2010-2011 Narrow Woven Ribbons from Taiwan).

¹¹ See Glycine from the People’s Republic of China: Preliminary Results of Antidumping Duty Administrative Review, 74 FR 15930, 15934 (Apr. 8, 2009), unchanged in Glycine from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, 74 FR 41121 (Aug. 14, 2009); see also Fujian Lianfu Forestry Co., Ltd. v. United States, 638 F. Supp. 2d 1325, 1336 (CIT 2009) (“Commerce may, of course, begin its total AFA selection process by defaulting to the highest rate in any segment of the proceeding, but that selection must then be corroborated, to the extent practicable.”).

¹² See, e.g., KYD, Inc. v. United States, 607 F.3d 760, 766-767 (CAFC 2010); see also NSK Ltd. v. United States, 346 F. Supp. 2d 1312, 1335 (CIT 2004) (affirming a 73.55 percent total AFA rate, the highest available dumping margin calculated for a different respondent in the investigation).

merchandise, Hubschercorp.¹³ Thus, it is reasonable to assume that Hubschercorp's dumping reflects the commercial reality of other Canadian resellers, and to apply as AFA the same AFA rate assigned to Hubschercorp in the previous review. Therefore, we are preliminarily assigning to Intercontinental Skyline and Pacific Imports an AFA rate of 137.20 percent, which is the petition rate that was previously assigned as AFA in the first administrative review to Hubschercorp, and is the highest margin on the record of this proceeding that can be corroborated.

Corroboration of Secondary Information

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.¹⁴ To corroborate means that the Department will satisfy itself that the secondary information to be used has probative value.¹⁵ To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used.¹⁶

It is difficult for the Department to corroborate the AFA rate in this administrative review because no exporters have cooperated in this review and, as a result, there is no information on the record. Independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation.¹⁷ In this case, the AFA rate being assigned to Intercontinental Skyline and Pacific Imports (*i.e.*, 137.20 percent) is the petition rate from the less-than-fair-value investigation, is the highest rate on the record of the proceeding, and was assigned as the AFA rate to Hubschercorp in the first administrative review.^{18, 19} Furthermore,

¹³ See 2010-2011 Narrow Woven Ribbons from Taiwan, at Comment 1.

¹⁴ See SAA at 870.

¹⁵ Id.

¹⁶ See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 61 FR 57391, 57392 (Nov. 6, 1996), unchanged in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part, 62 FR 11825 (Mar. 13, 1997).

¹⁷ See SAA at 870; see also Notice of Final Determination of Sales at Less Than Fair Value: Live Swine From Canada, 70 FR 12181, 12183 (Mar. 11, 2005).

¹⁸ See Notice of Final Determination of Sales at Less than Fair Value: Narrow Woven Ribbons with Woven Selvedge from Taiwan, 75 FR 41804 (Jul. 19, 2010).

¹⁹ See 2010-2011 Narrow Woven Ribbons from Taiwan, and accompanying Issues and Decision

this rate was corroborated to the extent practicable in the previous administrative review.²⁰ Since no information has been presented in the current review that calls into question the reliability of this information, we therefore find that the information continues to be reliable, to the extent practicable.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a rate continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin. For example, in Fresh Cut Flowers From Mexico,²¹ the Department disregarded the highest margin in that case as adverse best information available (the predecessor to “facts available”) because the margin was based on another company’s uncharacteristic business expense resulting in an unusually high margin. Similarly, the Department does not apply a margin that has been judicially invalidated.²² Because the respondents’ rate was assigned as AFA to Hubschercorp, another Canadian reseller of subject merchandise, and there is no information on the record of this review that demonstrates that this rate is not appropriate for use as AFA, we determine that this rate continues to be relevant, to the extent practicable.

As the 137.20 percent rate is both reliable and relevant, we determine that it has probative value, and thus, it has been corroborated to the extent practicable pursuant to section 776(c) of the Act. Also, we find that the 137.20 percent margin is sufficiently adverse to ensure that Intercontinental Skyline and Pacific Imports do not benefit from failing to cooperate to the best of their ability in our review by refusing to respond to the Department’s request for information. Thus, we have assigned this AFA rate to exports of the subject merchandise from Intercontinental Skyline and Pacific Imports.

Memorandum at Comment 1.

²⁰ Id.

²¹ See Fresh Cut Flowers From Mexico: Final Results of Antidumping Duty Administrative Review, 61 FR 6812, 6814 (Feb. 22, 1996).

²² See D&L Supply Co. v. United States, 113 F.3d 1220, 1224 (CAFC 1997).

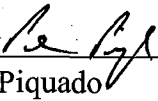
Conclusion

We recommend applying the above methodology for these preliminary results.

✓

Agree

Disagree



Paul Piquado
Assistant Secretary
for Import Administration

14 MAY 2013

(Date)