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International Trade Administration
Washington, D.C. 20230

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Administrative Review
POR: 07/01/2012-06/30/2013
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AD/CVD Operations/OVII: TP

August 18, 2014

MEMORANDUM TO: Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

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

SUBJECT: Decision Memorandum for Preliminary Results of Antidumping
Duty Administrative Review: Polyethylene Terephthalate Film,
Sheet, and Strip from Taiwan; 2012-2013

Summary

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on polyethylene terephthalate film, sheet, and strip from Taiwan (PET Film). This review covers Nan Ya Plastics Corporation (Nan Ya).

The period of review (POR) is July 1, 2012, through June 30, 2013. We preliminarily find that Nan Ya sold PET Film in the United States below normal value (NV).

Background

Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and in accordance with 19 CFR 351.213(b)(2), Nan Ya requested an administrative review of its shipments on July 31, 2013.¹ On the same date, Petitioners² requested reviews of Nan Ya and Shinkong Materials

¹ See the May 31, 2013 letter from Nan Ya entitled "Polyethylene Terephthalate (PET) Film from Taiwan: Request for Antidumping Duty Administrative Review."

² DuPont Teijin Films, Mitsubishi Polyester Film, Inc., and SKC, Inc. (Petitioners).



Technology Corporation (Shinkong), in accordance with 19 CFR 351.213(b)(1).³ On August 28, 2013, the Department published a notice of initiation of administrative review of the antidumping duty order on PET Film from Taiwan.⁴ Subsequently, Petitioners timely withdrew their review request for Shinkong and Nan Ya,⁵ and the Department published a notice rescinding the review as to Shinkong on January 8, 2014.⁶

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 through October 16, 2013.⁷ As a result, the revised deadline for the preliminary results was extended to April 18, 2014. Further, on April 1, 2014, in accordance with section 751(a)(3)(A) of the Act, the Department extended the due date for the preliminary results by an additional 120 days to August 18, 2014.⁸

Scope of the Order

The products covered by the antidumping duty order are all gauges of raw, pretreated, or primed polyethylene terephthalate film, sheet, and strip, whether extruded or coextruded. 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 of more than 0.00001 inches thick. Imports of polyethylene terephthalate film, sheet, and strip are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00.90. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the antidumping duty order is dispositive.

Comparisons to Normal Value

Pursuant to section 773(a)(1)(B) of the Act and 19 CFR 351.414(c)(1) and (d), to determine whether Nan Ya's sales of subject merchandise from Taiwan to the United States were made at less than NV, the Department compared the export price (EP) to the NV as described in the "Export Price" and "Normal Value" sections of this memorandum.

A. Determination of Comparison Method

Pursuant to 19 CFR 351.414(b) and (c)(1), the Department calculates dumping margins by comparing weighted-average NVs to weighted-average EPs (or constructed export prices (CEP)) (the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value investigations, the Department

³ See the July 31, 2013 letter from Petitioners "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from Taiwan: Request for Antidumping Duty Administrative Review."

⁴ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 78 FR 53128 (August 28, 2013).

⁵ See Letter to the Department from Petitioners "Polyethylene Terephthalate (PET) Film, Sheet, and Strip from Taiwan: Withdrawal of Request for Antidumping Duty Administrative Review" (December 12, 2013).

⁶ See *Polyethylene Terephthalate Film From Taiwan: Partial Rescission of Antidumping Duty Administrative Review; 2012–2013*, 79 FR 1362 (January 8, 2014).

⁷ See Memorandum to the File from Paul Piquado, Assistant Secretary for Enforcement and Compliance, dated October 18, 2013, regarding "Deadlines Affected by the Shutdown of the Federal Government."

⁸ See the April 1, 2014 memorandum to the File "Polyethylene Terephthalate Film from Taiwan: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review – 2012-2013."

examines whether to compare weighted-average NVs to the EP or CEP of individual U.S. sales (the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(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 antidumping duty investigations.⁹ In recent proceedings, the Department applied a "differential pricing" analysis for determining 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. The Department finds that the differential pricing analysis used in those recent proceedings may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review.¹⁰ 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, 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. For the respondent, purchasers are based on the reported customer codes. Regions are defined using the reported destination code (*i.e.*, zip code) 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* coefficient is calculated 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.

⁹ 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).

¹⁰ See *Polyethylene Terephthalate Film, Sheet, and Strip From Taiwan: Preliminary Results of Antidumping Duty Administrative Review; 2011–2012*, 78 FR 48651, 48651 (August 9, 2013), and accompanying Preliminary Decision Memorandum at "Determination of Comparison Method," unchanged in *Polyethylene Terephthalate Film Sheet, and Strip From Taiwan: Final Results of Antidumping Duty Administrative Review; 2011–2012*, 79 FR 11407 (February 28, 2014).

Then, the Cohen's *d* coefficient is used to evaluate the extent to which the net prices to a particular purchaser, region or 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, and the sales in the test group were found to have passed the Cohen's *d* test, 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 passes the Cohen's *d* test accounts for 66 percent or more of the value of total sales, then the identified pattern of prices 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 passes 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 prices 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 when both results 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.

B. Results of the Differential Pricing Analysis

For Nan Ya, based on the results of the differential pricing analysis, the Department preliminarily finds that more than 33 percent but less than 66 percent of the value of Nan Ya's total U.S. sales pass the differential pricing test, and the results of the test support consideration of the application of a mixed methodology (*i.e.* applying 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 applying the average-to-average method to those sales identified as not passing the Cohen's *d* test).¹¹ Further, the Department preliminarily determines that applying solely the average-to-average method to all sales cannot appropriately account for such differences because there is a meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and when using the alternative method, *i.e.*, the resulting weighted-average dumping margin using the mixed methodology moves across the *de minimis* threshold as compared to the average-to-average method.¹² Accordingly, the Department preliminarily determines to use the mixed methodology for all U.S. sales to calculate the weighted-average margin of dumping for Nan Ya.

Product Comparisons

In accordance with section 771(16) of the Act, we compared prices for products sold in the U.S. market with prices for products sold in the home market which were either identical or most similar in terms of the physical characteristics. In the order of importance, these physical characteristics are grade, specification, thickness, thickness category, and surface treatment. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product based on the characteristics listed above.

Date of Sale

The Department's regulations at 19 CFR 351.401(i) state that the Department normally will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established.

In the instant review, Nan Ya reported invoice date as the date of sale for both its home market and U.S. sales.¹³ We analyzed the information on the record and, consistent with 19 CFR 351.401(i), we preliminarily determine that the reported invoice dates are the appropriate dates of sale for Nan Ya's U.S. and home market sales under review.

¹¹ For additional detail, see "Preliminary Analysis Memorandum for Nan Ya Plastics Corporation" (Nan Ya Preliminary Analysis Memorandum).

¹² *Id.*

¹³ See Nan Ya's Section A Questionnaire Response at A-16 (December 26, 2013) (SAQR).

Export Price

For sales to the United States, the Department calculated EP in accordance with section 772(a) of the Act because the merchandise was sold prior to importation by the exporter or producer outside the United States to the first unaffiliated purchaser in the United States. We calculated EP based on packed prices to customers in the United States. We made deductions from U.S. price for domestic inland freight from plant to port of exportation as well as brokerage and handling charges incurred in the country of manufacture in accordance with section 772(c)(2)(A) of the Act.

Normal Value

A. Home Market Viability as Comparison Market

To determine whether there was a sufficient volume of sales of PET Film in the home market to serve as a viable basis for calculating NV, the Department compared the volume of the respondent's home market sales of the foreign like product to their volume of U.S. sales of the subject merchandise in accordance with section 773(a) of the Act. Pursuant to section 773(a)(1)(B) of the Act, because its aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable for comparison purposes for Nan Ya.

B. Level of Trade

In accordance with section 773(a)(1)(B) of the Act and the Statement of Administrative Action accompanying the Uruguay Round Agreements Act,¹⁴ to the extent practicable, the Department determines NV based on sales in the comparison market at the same level of trade (LOT) as the EP. Pursuant to 19 CFR 351.412(c)(1), the NV LOT is based on the starting price of the sales in the comparison market or, when NV is based on constructed value (CV), the starting price of the sales from which we derive the adjustments to CV for selling expenses and profit. For EP sales, the U.S. LOT is based on the starting price of the sales in the U.S. market, which is usually from the exporter to the importer.

To determine whether comparison market sales are at a different LOT than EP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer.¹⁵ If the comparison market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and the comparison market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act.

Nan Ya reported that it sold to end-users and distributors in its home market, and that most of its selling functions were performed at the same or similar levels of intensity in both channels of

¹⁴ See H.R. Doc. No. 316, 103d Cong., 2d Sess. 829-831 (1994).

¹⁵ See 19 CFR 351.412(c)(2).

distribution.¹⁶ Because the selling activities to Nan Ya's customers did not vary for sales in the home market through its two channels of distribution, we preliminarily determine that there is one LOT in the home market. Nan Ya only reported one channel of distribution in the U.S. market, as such, we therefore preliminarily determine that there is one LOT in the U.S. market.¹⁷

Nan Ya also provided the Department with information on their selling activities in their home and U.S. markets.¹⁸ We find that Nan Ya provided the same or similar level of customer support services on their U.S. sales (all of which were EP) as they did on their home market sales, and that the minor differences that do exist do not establish a distinct and separate LOT.¹⁹

Consequently, the record evidence supports a finding that in both markets Nan Ya performed essentially the same level of services. While we found minor differences between the home and U.S. markets, we determine that for Nan Ya the EP and the starting price of home market sales represent the same stage in the marketing process, and are, thus, at the same LOT. For this reason, we preliminarily find that a LOT adjustment for Nan Ya is not warranted. As there are no CEP sales, no CEP offset is appropriate.

C. Cost of Production Analysis

In the last administrative review of the order completed prior to the initiation of this review, the Department disregarded certain home-market sales made by Nan Ya at prices below the cost of production (COP).²⁰ Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that Nan Ya made sales of the foreign like product in their comparison market at prices below the COP in the current review period. Pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of home market sales by Nan Ya. We applied our standard methodology of using annual costs based on Nan Ya's reported data.

1. Calculation of Cost of Production

We calculated the COP on a product-specific basis, based on the sum of the respondent's costs of materials and fabrication for the foreign like product plus amounts for general and administrative expenses, interest expenses, and the costs of all expenses incidental to preparing the foreign like product for shipment in accordance with section 773(b)(3) of the Act.

We relied on Nan Ya's COP data submitted in its June 6, 2014, response to the Department's supplemental questionnaire.²¹

¹⁶ See SAQR at A-11, Exhibit A-3.a, and Exhibit A-3.c.

¹⁷ *Id.* at Exhibit A-3.a.

¹⁸ *Id.* at Exhibit A-3.c.

¹⁹ See Nan Ya Preliminary Analysis Memorandum at "Level of Trade."

²⁰ See *Polyethylene Terephthalate Film, Sheet, and Strip From Taiwan; Preliminary Results of Antidumping Duty Administrative Review*, 77 FR 46704, 46708-09 (August 6, 2012), unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip From Taiwan: Final Results of Antidumping Duty Administrative Review; 2010-2011*, 78 FR 9668 (February 11, 2013).

²¹ See Nan Ya's Response to the Department's First Supplemental Questionnaire (June 6, 2014).

2. Test of Comparison Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP for the POR to the per-unit price of the comparison market sales of the foreign like product to determine whether these sales by Nan Ya had been made at prices below the COP. In particular, in determining whether to disregard home market sales made at prices below their COP, we examined whether such sales were made within an extended period of time in substantial quantities and at prices which permitted the recovery of all costs within a reasonable period of time, in accordance with section 773(b) of the Act. We determined the net comparison market prices for the below-cost test by adjusting the gross unit price for all applicable movement charges, discounts, rebates, billing adjustments, direct and indirect selling expenses, and packing expenses excluding all adjustments for imputed expenses.

3. Results of the Cost of Production Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we did not disregard below-cost sales of that product because we determined that the below-cost sales were not made in substantial quantities. Where 20 percent or more of the respondent's home market sales of a given product were at prices less than the COP, we disregarded the below-cost sales because: (1) they were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act, and (2) based on our comparison of prices to the weighted average of the COPs, they were at prices which would not permit the recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act. Because we are applying our standard annual weighted-average cost methodology in these preliminary results, we also applied our standard cost-recovery test with no adjustments.

Our cost test for Nan Ya indicated that for home market sales of certain products, more than 20 percent were sold at prices below the COP within an extended period of time and were at prices which would not permit the recovery of all costs within a reasonable period of time. Thus, in accordance with section 773(b)(1) of the Act, we disregarded these below-cost sales in our analysis as outside of the ordinary course of trade and used the remaining sales to determine NV.

E. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on the prices Nan Ya reported for home market sales to unaffiliated customers that we determined were within the ordinary course of trade. In accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(c), we made, where indicated, circumstance-of-sale adjustments for home market direct selling expenses, including imputed credit expenses as well as for discounts and rebates. We also made adjustments in accordance with 19 CFR 351.410(e) for indirect selling expenses incurred on comparison-market or U.S. sales. In addition, we made deductions from NV, consistent with section 773(a)(6)(B)(ii) of the Act, for movement expenses. We also made adjustments for differences in domestic and export packing expenses in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act.²²

²² See Nan Ya Preliminary Analysis Memorandum for further details.

When comparing U.S. sale prices with NVs based on comparison market sale prices of similar, but not identical, merchandise, we also made adjustments for physical differences in merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like products and the subject merchandise.²³

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank. The exchange rates are available on the Enforcement and Compliance web site at <http://enforcement.trade.gov/exchange/index.html>.²⁴

Recommendation

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

August 14, 2014

(Date)

²³ See 19 CFR 351.411(b).

²⁴ See also Nan Ya Preliminary Analysis Memorandum at Attachment "Nan Ya's U.S. Market Sales and Margin Program Output and Log."