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DATE: September 25, 2014

MEMORANDUM TO: Paul Piquado
Assistant Secretary
for Enforcement and Compliance

FROM: Gary Taverman *RTT*
Associate Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

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

SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty (AD) order on narrow woven ribbons with woven selvedge (NWR) from Taiwan. The review covers two producers/exporters of the subject merchandise. The period of review (POR) is September 1, 2012, through August 31, 2013. We preliminarily find that sales of the subject merchandise have been made at prices below normal value (NV).

BACKGROUND

In September 2010, the Department published in the Federal Register an antidumping duty order on NWR from Taiwan.¹ Subsequently, on September 3, 2013, the Department published in the Federal Register a notice of opportunity to request an administrative review of the AD order on NWR from Taiwan for the period September 1, 2012, through August 31, 2013.²

Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b)(1), in September 2013, the Department received requests to conduct an administrative review from Berwick Offray LLC and its wholly-owned subsidiary Lion Ribbon

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, 78 FR 54235 (Sept. 3, 2013).



Company, Inc., (the petitioner), for 13 Taiwanese producers/exporters.³ On November 8, 2013, in accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of administrative review for 13 companies. In the Initiation Notice, the Department indicated that, in the event that we would limit the respondents selected for individual examination in accordance with section 777A(c)(2) of the Act, we would select mandatory respondents for individual examination based upon U.S. Customs and Border Protection (CBP) entry data.⁴

In January 2014, the petitioner withdrew its request for an administrative review for the following companies: (1) Apex Trimmings; (2) Cheng Hsing; (3) Hubschercorp; (4) Multicolor; (5) Papillon (H.K.); (6) Papillon (Shanghai); (7) Rong Shu; (8) the Shienq Huang Group; (9) Yama Ribbons and Bows; (10) Yangzhou Bestpak; and (11) Yu Shin. As a result, the Department rescinded this administrative review with respect to the above-mentioned companies.⁵ Also in January 2014, we issued the AD questionnaire to the two respondents remaining in the review, King Young and Hen Hao.

In March 2014, Hen Hao informed the Department that it did not intend to respond to the questionnaire or participate in the administrative review.⁶ Therefore, in accordance with sections 776(a)(1) and (2)(A), (B), and (C) and 776(b) of the Act, for these preliminary results, the Department has applied facts otherwise available with an adverse inference when determining Hen Hao's rate. See the sections "Use of Facts Available" and "Application of Facts Available with an Adverse Inference," below, for further discussion.

Also in March 2014, we received King Young's response to section A (i.e., the section related to general information) and sections B and C (i.e., the sections covering home market and U.S. sales, respectively) of the questionnaire. After reviewing this response, we requested additional information from King Young to determine if it was appropriate to treat King Young, its affiliated producer Glory Young Enterprise Co., Ltd. (Glory Young), and its affiliated trading company Ethel Enterprise Co., Ltd. Taiwan (Ethel), as a single entity. We received King Young's response to this information request in April 2014. Also in April 2014, we issued a supplemental sales questionnaire to King Young. We received King Young's response in May 2014.

³ See Initiation of Antidumping Duty Administrative Reviews and Request for Revocation in Part, 78 FR 67104 (Nov. 8, 2013) (Initiation Notice). These companies are listed as follows: Apex Trimmings Inc. d/b/a Papillon Ribbon & Bow (Canada) (Apex Trimmings); Cheng Hsing Ribbon Factory (Cheng Hsing); Hen Hao Trading Co. Ltd. a.k.a. Taiwan Tulip Ribbons and Braids Co. Ltd. (Hen Hao); Hubscher Ribbon Corp., Ltd. d/b/a Hubschercorp (Hubschercorp); King Young Enterprise Co., Ltd. (King Young); Multicolor, Papillon Ribbon & Bow (H.K.) Ltd. (Papillon (H.K.)); Papillon Ribbon & Bow (Shanghai) Ltd. (Papillon Shanghai); Rong Shu Industry Corporation (Rong Shu); Shienq Huang Enterprise Co., Ltd./ Hsien Chan Enterprise Co., Ltd./ Novelty Handicrafts Co., Ltd. (the Shienq Huang Group); Yama Ribbons and Bows Co., Ltd. (Yama Ribbons and Bows); Yangzhou Bestpak Gifts & Crafts Co., Ltd. (Yangzhou Bestpak); and Yu Shin Development Co. Ltd. (Yu Shin).

⁴ See Initiation Notice, 78 FR at 67104.

⁵ See Narrow Woven Ribbons With Woven Selvedge From Taiwan: Rescission, in Part, of Antidumping Duty Administrative Review: 2012-2013, 79 FR 15099 (Mar. 18, 2014) (Partial Rescission Notice).

⁶ See Hen Hao's letter to the Department, dated March 7, 2014 (Hen Hao Letter).

Also in May 2014, the Department extended the preliminary results deadline to September 30, 2014, in accordance with 751(a)(3)(A) of the Act.⁷

In June 2014, we determined that it was appropriate to collapse King Young, Glory Young, and Ethel, thus treating them as a single entity.⁸ In June and July, 2014, we issued additional supplemental sales questionnaire to King Young. We received King Young's responses in July and August 2014.

In August 2014, we instructed King Young to respond to the constructed value (CV) portion of Section D (i.e., the section related to cost information) of the questionnaire with respect to all products and models sold in the United States during the POR. In September 2014, we received King Young's response. Also in this month we issued several additional supplemental questionnaires related to King Young's greige ribbon costs; we received a response from King Young to one of these supplemental questionnaires in September 2014.⁹

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:

- 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;

⁷ See Memorandum to Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, from Alice Maldonado, Senior International Trade Compliance Analyst, Office II, Antidumping and Countervailing Duty Operations, entitled, "Narrow Woven Ribbons with Woven Selvedge from Taiwan: Extension of Deadline for Preliminary Results of Antidumping Duty Administrative Review," dated May 15, 2014.

⁸ See Memorandum to James Maeder, Director, Office II, AD/CVD Operations, from The Team, entitled, "Whether to Collapse King Young Enterprise Co., Ltd., Glory Young Enterprise Co., Ltd., and Ethel Enterprise Co., Ltd. in the 2012-2013 Antidumping Duty Administrative Review of Narrow Woven Ribbons with Woven Selvedge from Taiwan," dated June 11, 2014.

⁹ We note that King Young submitted revised home market and U.S. databases as part of this submission. We have accepted these databases for the record, but we have not used these revised databases in our calculations for the preliminary results because King Young did not provide a detailed description of all changes. We have required King Young to submit a list of all changes and supporting calculation worksheets by September 29, 2014, and we will examine the revisions during the sales verification. See Memorandum to the File from David Crespo, International Trade Compliance Analyst, Office II, Antidumping and Countervailing Duty Operations, entitled, "Request for List of Changes to September 2014 Databases," dated September 24, 2014. Further, as noted in the "Facts Available" section, below, the response to the remaining supplemental cost questionnaires are due in October 2014.

- 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

Normal Value Comparisons

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

When making these comparisons for purposes of determining an appropriate product comparison to the U.S. sale, in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the "Scope of the Order" section of this memorandum, above. If contemporaneous sales of identical home market merchandise were reported, as described below, we made comparisons to the monthly weighted-average home market prices that were based on all such sales. If there were no contemporaneous sales of identical merchandise in the home market, then we identified sales of the most similar merchandise that were contemporaneous with the U.S. sales, in accordance with 19 CFR 351.414(e). Where there were no sales of identical or similar merchandise, we made product comparisons using CV, as discussed in the "Product Comparisons" and "Calculation of Normal Value Based on Constructed Value" sections, below.¹⁰

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 Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value (LTFV) 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)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not 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 analogous to the issue in antidumping duty investigations.¹¹ In recent investigations, pursuant to 19 CFR 351.414(c)(1) and consistent with section 777A(d)(1)(B) of the Act, the Department has applied a "differential pricing" analysis to determine whether application of average-to-transaction comparisons is appropriate in a

¹⁰ See section 773(a)(4) of the Act.

¹¹ See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011, 77 FR 73415 (Dec. 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1.

particular situation.¹² The Department finds that 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.¹³ The Department will continue to develop its approach in this area based on comments received in this and other proceedings, as well as 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 for comparable merchandise that differ 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 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 consolidated customer codes. Regions are defined using the reported destination 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. 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 passed the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large threshold (i.e., 0.8).

¹² See, e.g., Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33350 (June 4, 2013), and accompanying Issues and Decision Memorandum at Comment 3; and Hardwood and Decorative Plywood From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 58273 (Sept. 23, 2013), and accompanying Issues and Decision Memorandum at Comment 3.

¹³ See, e.g., 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 and Decision Memorandum at Comment 2.

Next, the “ratio test” assesses the extent of the significance of the 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 accounts for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports 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 but less than 66 percent of the value of total sales, then the results support 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 the application 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, the Department examines 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 or greater 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 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

For King Young, based on the results of the differential pricing analysis, the Department finds that between 33 percent and 66 percent of King Young’s export sales pass the Cohen’s *d* test, which confirms the existence of a pattern of EPs for comparable merchandise that differ significantly among purchasers, regions or time periods. Further, the Department determines that the average-to-average method cannot appropriately account for such differences because the resulting weighted-average dumping margins move across the de minimis threshold when calculated using the average-to-average method and an alternative method based on the average-to-transaction method applied to those U.S. sales which passed the Cohen’s *d* test. Accordingly, the Department has determined to use the average-to-transaction method for those U.S. sales which passed the Cohen’s *d* test and the average-to-average method for those U.S. sales which

do not pass the Cohen's *d* test to calculate the weighted-average dumping margin for King Young.

Product Comparisons

In accordance with section 771(16)(A) of the Act, we considered all products produced by King Young covered by the description in the "Scope of the Order" section, above, and sold in the home market during the POR to be foreign like products for purposes of determining NV for the merchandise sold in the United States. Pursuant to 19 CFR 351.414(f), we compared King Young's U.S. sales of NWR to its sales of NWR made in the home market within the contemporaneous window period, which extends from three months prior to the month of the first U.S. sale until two months after the month of the last U.S. sale.

Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, according to section 771(16)(B) of the Act, we compared U.S. sales to sales of the most similar foreign-like product, or CV. In making the product comparisons, we matched foreign like products based on the physical characteristics to the product sold in the United States. In the order of importance, these physical characteristics are as follows: width, type, number of ends in the warp, number of weft picks, spool capacity, yarn composition, metal percentage, selvedge construction, dye process, surface finish, embellishments, dyed color, pattern type, selvedge contour, product unit packaging, and treatments.

King Young reported home market sales in units of spools, yards, and pieces, and U.S. sales in spools. Moreover, King Young reported all sales and cost data on a square-yard basis. We required King Young to report all quantities, prices, and associated expenses for each U.S. and home market sales transaction on a spool basis,¹⁴ consistent with the reporting requirements established in the LTFV investigation.¹⁵ While King Young complied with this request, it continued to report its sales and cost data on a square yard-basis, as well. Further, King Young informed the Department that it was unable to convert its sales made in pieces to a spool basis and, thus, it continued to report the price, quantity, and all associated expenses for these sales on a pieces-basis.¹⁶ King Young was, however, able to convert all sales made in yards into a spool-basis.¹⁷ In August 2014, King Young requested that the Department use its reported square-yard prices, expenses, and costs in its margin calculations for the preliminary results, claiming that basing sales on square yards will result in more accurate margin calculations and better model matches than calculations performed on a spool basis.¹⁸ King Young argued that, if the Department does not base its margin calculations on a square-yard basis, it should use King

¹⁴ See the Department's June 27, 2014, supplemental questionnaire at pages 2 and 4.

¹⁵ See Notice of Final Determination of Sales at Less than Fair Value: Narrow Woven Ribbons with Woven Selvedge from Taiwan, 75 FR 41804 (July 19, 2010), and accompanying Issues and Decision Memorandum at Comment 2 (NWR LTFV Final Determination).

¹⁶ See King Young's July 16, 2014, response at page 3.

¹⁷ See *Id.*

¹⁸ See King Young's August 29, 2014, pre-preliminary comments.

Young's reported "spool-equivalent" values, calculated and submitted as part of a supplemental sales questionnaire response.¹⁹ According to King Young, this methodology would eliminate an alleged distortion of having the most similar ribbons not match because they have a different length or width.

It is the Department's general practice to require respondents to report their data in the same unit of measure in which they sell their products.²⁰ Based on the information on the record of this proceeding, all of King Young's U.S. sales and a significant majority of its home markets sales were made on a spool basis, not by a square-yard basis.²¹ Further, because we considered the same issue in the LTFV investigation, we decided to continue to use the same methodology from past segments for this period of review. Consequently, in the preliminary results, we based our margin calculations for King Young on prices, expenses, and costs stated on a spool basis.

Export Price

For all U.S. sales made by King Young, we used EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold by the producer/exporter outside of the United States directly to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise warranted based on the facts of record.

We calculated EP based on the packed prices to the first unaffiliated purchaser in the United States. Where appropriate, we made adjustments for billing adjustments and discounts. We also made deductions from the starting price for foreign inland freight and foreign brokerage and handling expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act.

Normal Value

A. Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of King Young's home market sales of the foreign like product to the volume of its U.S. sales of subject merchandise, in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404. Based on this comparison, we determined that, pursuant to 19 CFR 351.404(b), the aggregate volume of home market sales of the foreign like product for King Young was sufficient to permit a proper comparison with U.S. sales of the subject merchandise.

¹⁹ In its August 5, 2014, supplemental response, King Young calculated a "spool-equivalent ratio" and converted all U.S. and home market sales and cost data to a "spool-equivalent" basis using this figure. *See* King Young's August 5, 2014, response at pages 9-21.

²⁰ *See NWR LTFV Final Determination* at Comment 2. *See also Viraj Forgings, Ltd. v. United States*, 283 F.Supp.2d 1335, 1354 (CIT 2003) (where the Court instructed the Department to "conform itself to its prior precedent and compare plaintiff's merchandise in the manner in which it was sold.").

²¹ *See* King Young's March 7, 2014, response at Exhibits A-2 (1) and A-2 (2) and King Young's U.S. and home market sales listings submitted on August 5, 2014.

B. *Level of Trade*

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).²² Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.²³ In order to determine whether the comparison market sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the chain of distribution), including selling functions and class of customer (customer category).

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices),²⁴ we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.²⁵

When the Department is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it possible, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment is possible), the Department will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.²⁶

In this administrative review, we obtained information from King Young regarding the marketing stages involved in making the reported home market and U.S. sales. In the U.S. market, King Young reported sales to traders/distributors through one channel of distribution (*i.e.*, direct sales to unaffiliated U.S. customers).²⁷ We examined the selling activities performed for these sales and found that King Young performed the following selling functions: packing, order/input processing, market research, providing cash discounts, and providing freight and delivery.²⁸ Selling activities can be generally grouped into four selling function categories for

²² See 19 CFR 351.412(c)(2).

²³ See *Id.*; see also Certain Orange Juice From Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part, 75 FR 50999 (Aug. 18, 2010), and accompanying Issues and Decision Memorandum at Comment 7 (OJ from Brazil).

²⁴ Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling, general and administrative (SG&A) expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

²⁵ See Micron Tech., Inc. v. United States, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

²⁶ See, e.g., OJ from Brazil at Comment 7.

²⁷ See King Young's March 7, 2014, response at page A-14.

²⁸ See King Young's July 16, 2014, response at Exhibits S-ABC-2-II.B.2(1) through S-ABC-2-II.B.2(3).

analysis: 1) sales and marketing; 2) freight and delivery services; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Accordingly, based on the selling function categories, we find that King Young performed sales and marketing and freight and delivery services for its EP sales. Because all sales in the United States are made through a single distribution channel and the selling activities to King Young's customers did not vary within this channel, we preliminarily determine that there is one LOT in the U.S. market.

With respect to the home market, King Young reported that it made sales through three channels of distribution (i.e., sales to distributors (Channel 1), sales to trading companies (Channel 2), and sales to end users/retailers (Channel 3)).²⁹ According to King Young, it performed freight and delivery services to sell to all home market customers, and market research for sales in Channels 1 and 2.³⁰ However, we note that, based on King Young's questionnaire responses, it also performs order processing, packing, and provides cash discounts for sales in all home market channels.³¹ Therefore, based on the four selling function categories listed above, we find that King Young performed sales and marketing and freight and delivery for certain sales. While King Young reported sales through three different channels of distribution in the home market, because the selling functions performed by King Young do not differ significantly between channels, we preliminarily determine that there is one LOT in the home market.

Finally, we compared the U.S. LOT to the home market LOT and found that the selling functions performed for U.S. and home market customers are virtually identical. Therefore, we determine that sales to the U.S. and home markets during the POR were made at the same LOT and, as a result, no LOT adjustment is warranted.

C. *Calculation of Normal Value Based on Comparison Market Prices*

We based NV for King Young on the reported delivered prices to unaffiliated customers in the home market. We made adjustments to the starting price, where appropriate, for billing adjustments and other discounts, in accordance with 19 CFR 351.401(c). We also made deductions for inland freight expenses, pursuant to section 773(a)(6)(B) of the Act. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for direct selling expenses (including bank charges and imputed credit expenses).

We added U.S. packing costs and deducted home market packing costs, in accordance with sections 773(a)(6)(A) and (B)(i) of the Act. When comparing U.S. sales with home market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the 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 product and subject merchandise.³²

²⁹ See King Young's March 7, 2014, response at page A-14.

³⁰ See King Young's July 16, 2014, response at Exhibits S-ABC-2-II.B.2(1) through S-ABC-2-II.B.2(3).

³¹ See King Young's March 7, 2014, response at Exhibit A-5(1).

³² See 19 CFR 351.411(b).

D. *Calculation of Normal Value Based on Constructed Value*

Section 773(a)(4) of the Act provides that, where NV cannot be based on comparison market sales, NV may be based on CV. Accordingly, for those NWR models for which we could not determine the NV based on home market sales, we based NV on CV.

Section 773(e) of the Act provides that CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for SG&A expenses, profit, and U.S. packing costs. We relied on the CV data submitted by King Young in its September 12, 2014, response with the exception of financial expenses, which we adjusted to include foreign exchange gains/losses and to exclude interest income.³³ We based profit on the actual amounts incurred and realized by King Young in connection with the production and sale of the foreign like product, in the ordinary course of trade, for consumption in the home market, in accordance with section 773(e)(2)(A) of the Act.

Currency Conversion

We made currency conversions into U.S. dollars for all spot transactions by King Young 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.

Facts Available

Section 776(a) of the Act provides that, subject to section 782(d) of the Act, the Department shall apply "facts otherwise available" if: (1) necessary information is not on the record; or (2) an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within 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 information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the deficiency within the applicable time limits, subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. Such an adverse inference may include

³³ See Memorandum to Neal M. Halper, Director, Office of Accounting, from LaVonne Clark, Accountant, entitled, "Constructed Value Calculation Adjustments for the Preliminary Results – King Young Enterprises Co., Ltd.," dated September 25, 2014.

reliance on information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

King Young

With respect to King Young's reported acquisition costs for greige ribbon, we have preliminary determined that the weavers of the NWR under review are the producers of this merchandise, consistent with the NWR LTFV Final Determination.³⁴ As such, we requested King Young to obtain cost information from its unaffiliated greige ribbon suppliers.³⁵ The Department also directly contacted King Young's unaffiliated greige ribbon suppliers to request the suppliers' greige ribbon costs.³⁶ The cost information requested directly from the greige suppliers is due October 8, 2014, subsequent to these preliminary results. Thus, because the greige ribbon cost information is not available on the record at this time, for purposes of these preliminary results, we have relied on facts otherwise available pursuant to section 776(a)(1) of the Act to value the greige ribbon obtained by King Young from unaffiliated suppliers that was consumed in the production of the subject merchandise. As facts available, we have relied on King Young's greige ribbon acquisition costs, as reported by King Young in its data files.

Hen Hao

A. Use of Facts Available

As noted in the "Background" section, above, Hen Hao did not respond to the Department's questionnaire in this administrative review and informed the Department that it did not intend to participate in this review.³⁷ As a result, Hen Hao did not provide the requested information necessary for the Department to calculate an antidumping duty margin for it in this review. Therefore, pursuant to section 776(a) of the Act, the Department has based Hen Hao's antidumping duty rate in these preliminary results on facts otherwise available.

Section 776(a)(1) of the Act states that the Department "shall use" facts available if necessary information is not available on the record. Further, section 776(a)(2) of the Act provides that the Department "shall use" facts available if it determines that an interested party withheld information requested by the Department, failed to provide such information by the deadlines for submission of the information or in the form and manner requested by the Department, or significantly impeded a proceeding. In this case, all of these factors apply. Accordingly the use of facts available is warranted in determining a weighted-average dumping margin for Hen Hao under sections 776(a)(1) and (2)(A), (B), and (C) of the Act.

³⁴ See NWR LTFV Final Determination at Comment 19.

³⁵ See the Department's September 10, 2014, supplemental questionnaire.

³⁶ See Memorandum to the File, from LaVonne Clark, Accountant, entitled, "Greige Ribbon Constructed Value Questionnaires Sent to King Young Enterprise Co., Ltd.'s Unaffiliated Greige Suppliers," dated September 18, 2014.

³⁷ See Hen Hao Letter.

B. Application of Facts Available with an Adverse Inference

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.³⁸ In addition, the Statement of Administrative Action (SAA) explains that the Department may employ an adverse inference “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”³⁹ Furthermore, affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.⁴⁰ It is the Department’s practice to consider, in employing adverse inferences, the extent to which a party may benefit from its own lack of cooperation.⁴¹

We preliminarily find that Hen Hao did not act to the best of its abilities in this administrative review, within the meaning of section 776(b) of the Act, because it 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 this company.⁴²

C. Selection and Corroboration of Adverse Facts Available (AFA) Rate

Where the Department uses AFA because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record.⁴³ As AFA, we preliminarily assign Hen Hao a rate of 137.20 percent, which is the highest rate alleged in the petition, as noted in the initiation of the investigation.⁴⁴ The petition rate was used as the AFA rate for non-

³⁸ 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).

³⁹ See SAA accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, Vol. 1, at 870, reprinted in 1994 U.S.C.C.A.N. 4040, 4174-75; Certain Polyester Staple Fiber from Korea: Final Results of the 2005-2006 Antidumping Duty Administrative Review, 72 FR 69663, 69664 (Dec. 10, 2007).

⁴⁰ See, e.g., Nippon Steel Corp. v. United States, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003) (Nippon); Antidumping Duties; Countervailing Duties, 62 FR 27296, 27340 (May 19, 1997).

⁴¹ See, e.g., Steel Threaded Rod From Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances, 78 FR 79670 (Dec. 31, 2013), and accompanying Preliminary Decision Memorandum at page 4, unchanged in Steel Threaded Rod From Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances, 79 FR 14476 (Mar. 14, 2014).

⁴² See Nippon, 337 F.3d at 1382-83.

⁴³ See 19 CFR 351.308(c)(1) & (2); SAA at 868-870.

⁴⁴ See Narrow Woven Ribbons with Woven Selvage from the People’s Republic of China and Taiwan: Initiation of Antidumping Duty Investigations, 74 FR 39291, 39296 (Aug. 6, 2009).

cooperative respondents in the first and second administrative reviews of this order.⁴⁵ This rate is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.⁴⁶

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.⁴⁷ To corroborate means that the Department will satisfy itself that the secondary information to be used has probative value.⁴⁸ To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used.⁴⁹

In this proceeding, the highest petition margin is 137.20 percent. As previously noted, that petition rate was used as the AFA rate for non-cooperative respondents in the first and second administrative reviews. Moreover, the 137.20 percent rate used as AFA in the first administrative review was upheld by the CIT because the Department was able to successfully link the petition rate to the commercial reality of the non-cooperative respondent in question (*i.e.*, Hubschercorp, a Canadian reseller).⁵⁰ As no information is on the record of this current review to question the reliability of the 137.20 percent petition rate, we determine this information continues to be reliable.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. In addition, “Commerce may not select unreasonably high rates having no relationship to the respondent’s actual dumping margin.”⁵¹ The Department must select a rate that has “some

⁴⁵ See 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); see also Narrow Woven Ribbons With Woven Selvedge From Taiwan: Final Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 50377 (Aug. 19, 2013).

⁴⁶ See SAA at 870.

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ See, e.g., 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).

⁵⁰ See Hubscher Ribbon Corp. v. United States, 979 F.Supp. 2d 1360, 1366-1371 (CIT 2013) (Hubscher).

⁵¹ See Gallant Ocean (Thailand) Co. v. United States, 602 F.3d 1319, 1323 (Fed. Cir. 2010) (Gallant Ocean). See also F.lli De Cecco Di Filippo Fara S. Martino S.P.A. v. United States, 216 F.3d 1027, 1032 (Fed. Cir.

grounding in commercial reality.”⁵² Citing to Gallant Ocean, importers of Hen Hao’s subject merchandise (i.e., Morex Ribbon Corp. and Papillon Ribbon & Bow Inc. (Morex and Papillon)) contend that the 137.20 percent rate from the petition cannot be corroborated in this administrative review.⁵³

In order to corroborate the petition rate in this segment, we analyzed King Young’s margin program for this review and found numerous transaction-specific margins at or above the petition rate.⁵⁴ Because the 137.20 percent margin is within the range of comparison margins on the record of this administrative review for a respondent exporting subject merchandise to the United States during the POR, the Department determines that the 137.20 percent margin continues to be relevant and has grounding in “commercial reality,” and, thus, it is an appropriate source of AFA rate data in this administrative review.⁵⁵

Additionally, information on the record of this proceeding demonstrates that, during the first administrative review in this proceeding, Hen Hao was a supplier of NWR sold in the United States by the Canadian reseller Hubschercorp.⁵⁶ In that review, the Department assigned Hubschercorp a rate, also based on AFA, of 137.20 percent, and this decision was upheld by the CIT.⁵⁷ Thus, because Hen Hao sold subject merchandise to Hubschercorp, the record in this case contains additional evidence to support the assignment of the 137.20 percent margin to Hen Hao.⁵⁸

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 Hen Hao does not benefit from failing to cooperate to the best of its ability in our review by refusing to respond to the Department’s request for information.⁵⁹ Thus, we assigned this AFA rate to subject merchandise from Hen Hao.

2000), (De Cecco) (rejecting the Department’s AFA rate, which was the average of rates alleged in the petition, as “discredited and uncorroborated”).

⁵² See Gallant Ocean, 602 F.3d at 1323-24.

⁵³ See Morex and Papillon’s September 12, 2014, submission at page 3.

⁵⁴ See Memorandum to the File, from David Crespo, Analyst, Office II, AD/CVD Operations, entitled, “Calculations for King Young Enterprise Co., Ltd. for the Preliminary Results,” dated September 25, 2014.

⁵⁵ Id.

⁵⁶ See the petitioner’s September 10, 2014, submission at Exhibits 1-3.

⁵⁷ See Hubscher, 979 F.Sup. 2d at 1366-1371.

⁵⁸ See Id.; see also KYD, Inc. v. United States, 607 F.3d 760, 766-67 (Fed. Cir. 2010). We note that Morex and Papillon claim that the fact that Hubschercorp is a Canadian reseller distinguishes application of the 137.20 percent AFA rate in the first administrative review with the circumstances in this review. See Morex and Papillon’s September 12, 2014, submission at page 5. However, we disagree with this claim because, as noted above, Hubschercorp is documented to have purchased Hen Hao’s NWR.

⁵⁹ See SAA at 870; De Cecco, 216 F.3d at 1032.


RECOMMENDATION

Based on our analysis, we recommend adopting the above positions in these preliminary results. If this recommendation is accepted, we will publish the preliminary results of the review and the preliminary dumping margins for Hen Hao and King Young in the Federal Register.

✓

Agree

Disagree



Paul Piquado
Assistant Secretary
for Enforcement and Compliance

25 September 2014
(Date)