

home market customers but not EP customers. However the information on the record indicates that there is insufficient qualitative differences in the selling functions performed by Nan Ya in making sales in the home market and United States to find them to be distinct LOTs. Therefore, using the information on the record, we preliminarily determine that Nan Ya makes home market and EP sales at the same LOT.

Because Nan Ya's EP sales are made at the same LOT as home market sales, we did not make a LOT adjustment for any sales of subject merchandise by Nan Ya. See Memorandum to the File Re: Level of Trade Analysis for Nan Ya Plastics Corporation, Ltd., dated December 13, 2001.

#### Currency Conversions

We made currency conversions into U.S. dollars in accordance with section 773A of the Act based on exchange rates in effect on the dates of the U.S. sales, as obtained from the Federal Reserve Bank, the Department's preferred source for exchange rates.

#### Verification

In accordance with section 782(i) of the Act, we intend to verify all information relied upon in making our final determination.

#### All Others Rate

Section 735(c)(5)(A) of the Act provides for the use of an "all others" rate, which is applied to non-investigated firms. See *Statement of Administrative Actions, Uruguay Round Agreements Act*, Pub. L. 103-465, 103rd Cong. 2d Sess., H. Doc. 103-316, vol. I (1994) (SAA) at 873. This section states that the all others rate shall generally be an amount equal to the weighted average of the weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins based entirely upon the facts available. Therefore, since Nan Ya has a *de minimis* margin, we have preliminarily assigned to all other exporters of PET Film from Taiwan, a margin that is based on the weighted-average margin calculated for Shinkong.

#### Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of PET Film from Taiwan, except for exports by Nan Ya, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal**

**Register**. Because the estimated weighted-average dumping margin for Nan Ya is *de minimis*, we are not directing the Customs Service to suspend liquidation of entries of merchandise from this company from Taiwan. We are also instructing the Customs Service to require a cash deposit or the posting of a bond equal to the dumping margin for all entries of PET Film from Taiwan, except for exports by Nan Ya.

	Margin (percent)
Manufacturer/exporter:	
Shinkong Synthetic Fibers Corporation .....	9.19
Nan Ya Plastics Corporation, Ltd. ....	1.70
All Others .....	9.19

#### Disclosure

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties to the proceeding in accordance with 19 CFR 351.224(b).

#### International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our sales at LTFV determination. If our final antidumping determination is affirmative, the ITC will determine whether the imports covered by that determination are materially injuring, or threatening material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

#### Public Comment

Case briefs for this investigation must be submitted no later than one week after the issuance of the last verification report. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a

hearing is requested by an interested party. If a request for a hearing is made in an investigation, the hearing normally will be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. In the event that the Department receives requests for hearings from parties to more than one PET film case, the Department may schedule a single hearing to encompass all those cases. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

As noted above, the final determination will be issued within 135 days after the date of the publication of the preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: December 13, 2001.

**Faryar Shirzad**,  
Assistant Secretary for Import  
Administration.

[FR Doc. 01-31514 Filed 12-20-01; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-533-824]

#### Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Polyethylene Terephthalate Film, Sheet, and Strip From India

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** December 21, 2001.

**FOR FURTHER INFORMATION CONTACT:** Timothy Finn, Zev Primor, or Howard Smith at (202) 482-0065, (202) 482-4114, and (202) 482-5193, respectively; AD/CVD Enforcement, Office 4, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

## The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce's (the Department's) regulations refer to the regulations codified at 19 CFR part 351 (2001).

## Preliminary Determination

We preliminarily determine that polyethylene terephthalate film, sheet, and strip (PET film) from India is being, or is likely to be sold, in the United States at less-than-fair-value (LTFV), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the *Suspension of Liquidation* section of this notice.

## Case History

This investigation was initiated on June 6, 2001. See *Notice of Initiation of Antidumping Duty Investigations: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) From India and Taiwan*, 66 FR 31888 (June 13, 2001) (*Initiation Notice*).<sup>1</sup> Since the initiation of these investigations, the following events have occurred.

The Department set aside a period for all interested parties to raise issues regarding product coverage. See *Initiation Notice*, at 66 FR 31889. We received no comments from any parties on this matter.

On July 2, 2001 the United States International Trade Commission (ITC) transmitted to the Department its preliminary determination that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from India of PET film that are alleged to be sold in the United States at LTFV. See *Polyethylene Terephthalate Film, Sheet, and Strip and Taiwan*, 66 FR 36296 (July 11, 2001).

On July 3, 2001, the Department issued antidumping questionnaires to, and received questionnaire responses from, the two mandatory respondents in this investigation, Ester Industries Limited (Ester) and Polyplex Corporation Limited (Polyplex).<sup>2</sup> See

*Selection of Respondents* section below. On August 27, 2001, the Department returned Ester's and Polyplex's Section A responses due to over bracketing of information. Ester and Polyplex resubmitted Section A on August 29, 2001. We issued supplemental questionnaires, pertaining to sections A, B, C, and D of the antidumping questionnaire, to Ester and Polyplex in September, October, and November 2001. Ester and Polyplex responded to these supplemental questionnaires in September, October, November, and December 2001.

On October 12, 2001, pursuant to section 733(c)(1)(B) of the Act, the Department postponed the preliminary determination of this investigation by 50 days from October 24, 2001, until December 13, 2001. See *Polyethylene Terephthalate Film, Sheet, and Strip from India and Taiwan: Notice of Postponement of Preliminary Antidumping Duty Determinations*, 66 FR 52108 (October 12, 2001).

## Postponement of the Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for an extension of the provisional measures from a four-month period to not more than six months.

On December 5, 2001, Ester and Polyplex requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until 135 days after the publication of the preliminary determination. Ester and Polyplex also

Section B requests a complete listing of all home market sales of foreign like product, or, if the home market is not viable, sales of foreign like product in the most appropriate third-country market (this section is not applicable to respondents in non-market economy (NME) cases). Section C requests a complete listing of all U.S. sales of subject merchandise. Section D requests information on the cost of production (COP) of the foreign like product and the constructed value (CV) of the merchandise under investigation. Section E requests information on further manufacturing.

included a request to extend the provisional measures to not more than 135 days after the publication of the preliminary determination. Accordingly, since we have made an affirmative preliminary determination, and the requesting parties account for a significant proportion of exports of the subject merchandise, we have postponed the final determination until not later than 135 days after the date of the publication of the preliminary determination.

## Period of Investigation

The period of investigation (POI) is April 1, 2000, through March 31, 2001. This period corresponds to the four most recently completed fiscal quarters prior to the month of the filing of the petition (*i.e.*, May 2001).

## Affiliation of Parties

Pursuant to section 771(33)(F) of the Act, the Department has preliminarily determined that two customers to whom Polyplex sold PET film during the POI and whom Polyplex identified as unaffiliated parties, are, in fact, affiliated with Polyplex. Specifically, the Department has determined that one U.S. customer and one home market customer (hereinafter referred to as Company A and Company B, respectively), are part of a corporate grouping which, together with Polyplex, controls another person. According to section 771(33)(F) of the Act, two or more persons directly or indirectly controlling any other person shall be considered affiliated. Thus, we have preliminarily found the corporate grouping, including companies A and B, to be affiliated with Polyplex. For a complete discussion of this issue, see the December 13, 2001 memorandum, *Whether Polyplex Corporation Limited is Affiliated, Under the Tariff Act of 1930, as Amended, With Its U.S. Customer, Company A, and Its Home Market Customer, Company B* (*Affiliation Memorandum*), which is on file in the Central Records Unit (CRU), room B-099 of the main Department of Commerce building.

## Critical Circumstances

In their petition, the petitioners requested that the Department initiate a critical circumstances investigation of PET film from India. However, the Department did not initiate a critical circumstances investigation because it found that petitioners failed to support their allegation of critical circumstances. In the *Initiation Notice* the Department stated:

Although the petitioners provided data indicating significant increases in imports

<sup>1</sup> The petitioners in these investigations are DuPont Teijin Films, Mitsubishi Polyester Film of America, and Toray Plastics (America), Inc.

<sup>2</sup> The Department's July 3, 2001 antidumping questionnaire consisted for the following sections. Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets.

over a three-year period, we do not consider this to be sufficient evidence of massive imports over a relatively short period of time within the meaning of section 733(e)(1)(B) of the Act and section 351.206 of the Department's regulations. If, at a later date, the petitioners adequately allege the elements of critical circumstances, based on reasonably available information, the Department will investigate this matter further.

See *Initiation Notice*, 66 FR at 31891.

On September 14, 2001, petitioners requested, pursuant to section 732(e) of the Act, that the Department request the Commissioner of the U.S. Customs Service (Customs) to compile information on an expedited basis regarding entries of PET film from India into the United States. After considering this request, we have determined that the record in this investigation does not contain evidence of circumstances which warrant invoking section 732(e) of the Act. Thus, we have not requested information from Customs on an expedited basis. For a complete discussion of this issue, see the memorandum from Holly A. Kuga, Senior Director, to Bernard Carreau, Deputy Assistant Secretary, *Antidumping Investigation on Polyethylene Terephthalate Film, Sheet and Strip from India: Critical Circumstances*, dated December 13, 2001, which is on file in the CRU.

#### *Scope of Investigation*

For purposes of these investigations, the products covered are all gauges of raw, pretreated, or primed PET film, whether extruded or coextruded. Excluded are metallized 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 PET film are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

#### *Selection of Respondents*

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. However, where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Act permits the Department to investigate either (1) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time

of selection, or (2) exporters and producers accounting for the largest volume of the subject merchandise from the exporting country that can reasonably be examined. The petition identified seven Indian producers of PET film. However, due to limited resources, we determined that we could investigate only two producers/exporters. Information on the record indicates that Ester and Polyplex were the two largest producers/exporters of PET film from India to the United States during the POI. See Memorandum from Nithya Nagarajan to Bernard T. Carreau, Selection of Respondents, dated June 27, 2001, which is on file in the CRU, room B-099 of the main Department of Commerce building. Therefore, we selected Ester and Polyplex as mandatory respondents and sent them antidumping questionnaires.

#### *Product Comparisons*

In accordance with section 771(16) of the Act, all products produced by the respondents, and covered by the description in the *Scope of Investigation* section above, that were sold in India during the POI are considered to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We have relied upon the grade and thickness product characteristics to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product or constructed value (CV). 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 next most similar foreign like product on the basis of the characteristics listed above.

#### *Fair Value Comparisons*

To determine whether sales of PET film from India were made in the United States at LTFV, we compared the export price (EP) or constructed export price (CEP) to the Normal Value (NV), as described in the *Export Price*, *Constructed Export Price*, and *Normal Value* sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI weighted-average EPs and CEPs to NVs.

#### *U.S. Sales of Further-Manufactured PET Film*

During the POI, Polyplex and its U.S. affiliate, Spectrum Marketing Company Inc. (Spectrum), sold PET film to a U.S. customer, Company A, who further-manufactured the PET film into non-subject merchandise. Company A did not sell non-further-manufactured PET film in the United States during the POI.

After examining the various relationships between Polyplex, Spectrum, and Company A, the Department, as noted above, has preliminarily determined that Company A is affiliated with both Polyplex and Spectrum. Polyplex has requested that if the Department determines Company A to be an affiliated party, it apply section 772(e) of the Act (the special rule for merchandise with value added after importation) in determining the margin for Company A's further-manufactured sales rather than using the standard methodology described under section 772(d)(2) of the Act. After examining the record, we have determined that it does not contain sufficient information for the Department to determine whether it is more appropriate to use the special rule or the standard methodology in calculating margins for the sales in question. Moreover, the record does not contain the information necessary to apply the standard methodology.

Given the foregoing, and the requirement of section 772 of the Act to base export price and constructed export price on the price at which the merchandise is first sold to an unaffiliated purchaser, for the preliminary determination we have calculated the weighted-average dumping margin for Polyplex using only subject merchandise sales of non-further-manufactured PET film that were made to unaffiliated parties. We intend to collect the information necessary to decide how to treat these sales for the final determination. For a complete discussion of this issue, see the December 13, 2001, memorandum, *How to Account for Sales of Further-Manufactured Polyethylene Terephthalate (PET) Film, Sheet, and Strip in the Preliminary Dumping Calculations* which is on file in the CRU.

#### *Export Price*

Where Ester and Polyplex sold merchandise directly to unaffiliated purchasers in the United States, we used EP, in accordance with section 772(a) of the Act, as the price to the United States. For both respondents, we calculated EP using the packed prices charged to the first unaffiliated customer in the United States (the starting price).

We deducted from the starting price, where applicable, amounts for discounts and rebates. In addition, we deducted movement expenses in accordance with section 772(c)(2)(A) of the Act. In this case, movement expenses include foreign inland freight, international freight, foreign and U.S. brokerage and

handling charges, insurance, U.S. duties, and U.S. inland freight.

Finally, we increased U.S. price by the amount of the export subsidy found in the companion countervailing duty investigation on PET film from India. *See Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Determination with Final Antidumping Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET film) from India (PET film CVD Prelim)*, 66 FR 53389 (October 22, 2001).

#### Constructed Export Price

For Ester and Polyplex, we calculated CEP, in accordance with subsection 772(b) of the Act, for those sales to unaffiliated purchasers that took place after importation into the United States. We based CEP on the packed FOB or delivered prices to unaffiliated purchasers in the United States. Where appropriate, we made adjustments for price-billing errors and freight revenue, and made deductions for early payment discounts and rebates in order to identify the correct starting price. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. Movement expenses included, where appropriate, foreign inland freight, ocean freight, marine insurance, U.S. brokerage and handling, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), U.S. inland insurance, U.S. inland freight expenses, and warehousing expenses. In accordance with section 772(d)(1) of the Act, where applicable, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses, inventory carrying costs, and other indirect selling expenses. Also, we made an adjustment for profit in accordance with section 772(d)(3) of the Act.

Finally, we increased U.S. price by the amount of the export subsidy found in the companion countervailing duty investigation on PET film from India. *See PET film CVD Prelim*.

#### Normal Value

##### A. Selection of Comparison Market

Section 773(a)(1) of the Act directs that NV be based on the price at which the foreign like product is sold in the home market, provided that the merchandise is sold in sufficient quantities (or has sufficient aggregate value, if quantity is inappropriate) and that there is no particular market situation in the home market that prevents a proper comparison with the

EP or CEP transaction. The statute contemplates that quantities (or value) will normally be considered insufficient if they are less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States.

For this investigation, we found that Ester and Polyplex each had a viable home market for PET film. Thus, the home market is the appropriate comparison market in this investigation, and we used the respondents' submitted home market sales data for purposes of calculating NV.

In deriving NV, we made adjustments as detailed in the *Calculation of NV Based on Home Market Prices* and *Calculation of NV Based on CV*, sections below.

##### B. Affiliated-Party Transactions and Arm's-Length Test

Ester reported that it only sold PET film in the home market to unaffiliated customers. Therefore, the Department's arm's-length test is inapplicable with regard to Ester's home market sales.

Polyplex reported that it made no home market sales to affiliated companies. However, since we have preliminarily determined that Company B is affiliated with Polyplex, we applied the arm's-length test to sales from Polyplex to Company B.<sup>3</sup> We have applied the arm's-length test by comparing sales made to the home market affiliate to sales of identical merchandise from Polyplex to unaffiliated home market customers. To test whether these sales were made at arm's-length prices, we compared on a model-specific basis the starting prices of sales to affiliated and unaffiliated customers net of all discounts and rebates, movement charges, direct selling expenses, and home market packing. Where, for the tested models of subject merchandise, prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to the affiliated party were at arm's-length. *See* 19 CFR 351.403(c) and *Preamble—Department's Final Antidumping Regulations* 62 FR 27296, 27355 (May 19, 1997). If the sales to the affiliated customer satisfied the arm's-length test, we used them in our analysis. If the sales to the affiliated customer in the home market did not satisfy the arm's-length test sales to the that customer were excluded from our analysis because we considered them to be outside the ordinary course of trade.

<sup>3</sup> Due to the proprietary nature of the determination, please see the Affiliation Memorandum, dated December 13, 2001.

*See* 19 CFR 351.102 (defining "ordinary course of trade").

##### C. COP Analysis

Concurrent with the filing of the original petition, the petitioners alleged that sales of PET film in the home market of India were made at prices below the fully absorbed COP, and accordingly, requested that the Department conduct a country-wide sales-below-cost investigation. Based upon the comparison of the petition's adjusted prices and COP for the foreign like product, and in accordance with section 773(b)(2)(A)(i) of the Act, we found reasonable grounds to believe or suspect that sales of PET film manufactured in India were made at prices below the COP. *See Initiation Notice*, 66 FR at 31890. As a result, the Department has conducted an investigation to determine whether Ester and Polyplex made sales in the home market at prices below their respective COPs during the POI within the meaning of section 773(b) of the Act. Our COP analysis is described below.

1. *Calculation of COP.* In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP for each respondent based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for the home market general and administrative (G&A) expenses and interest expenses.

We relied on the COP data submitted by Ester and Polyplex in their cost questionnaire responses, except, as noted below, in specific instances where Ester's submitted costs were not appropriately quantified or valued.

a. *Changes to Ester's COP.* Based on the information on the record, we recalculated Ester's reported G&A and interest expense ratios to include expenses on a company-wide basis rather than expenses based on Ester's PET film division only.

2. *Test of Home Market Sales Prices.* Pursuant to section 773(b) of the Act, on a model-specific basis we compared the COP, or in Ester's case the revised COP, to the home market prices, less any applicable discounts and rebates, movement charges, selling expenses, commissions, and packing in order to determine whether these sales had been made at prices below the COP within an extended period of time (*i.e.*, a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time.

3. *Results of the COP Test.* Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices

less than the COP, we did not disregard any 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 a respondent's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in "substantial quantities" within an extended period of time in accordance with section 773(b)(2)(B) of the Act. In such cases, because we compared prices to POI average costs, we also determined that such sales were not made at prices that would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below-cost sales.

We found that, for certain models of PET film, more than 20 percent of the home market sales by Ester and Polyplex were made within an extended period of time at prices less than the COP. Further, the prices did not provide for the recovery of costs within a reasonable period of time. Therefore, we disregarded these below-cost sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

#### D. Calculation of NV Based on Home Market Prices

We based home market prices on the packed prices to unaffiliated purchasers in India. We adjusted, where applicable, the starting price for discounts and rebates. We made adjustments for any differences in packing, in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and we deducted movement expenses, pursuant to section 773(a)(6)(B)(ii) of the Act. In addition, where applicable, we made adjustments for differences in circumstances of sale (COS) pursuant to section 773(a)(6)(C)(iii) of the Act by deducting direct selling expenses incurred for home market sales (credit expense) and adding U.S. direct selling expenses (credit expense). We also made adjustments, pursuant to 19 CFR 351.410(e), for indirect selling expenses incurred on comparison-market or U.S. sales where commissions were granted on sales in one market but not in the other (the commission offset).

#### E. Calculation of NV Based on CV

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 models of PET film for which we could not determine the NV based on comparison-market sales, either because there were no sales of a comparable

product or all sales of the comparison products failed the COP test, we based NV on CV.

In accordance with sections 773(e)(1) and (e)(2)(A) of the Act, we calculated CV based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling expenses, G&A, interest, profit and U.S. packing costs. We calculated the cost of materials and fabrication based on the methodology described in the "Calculation of COP" section of this notice. In accordance with section 773(e)(2)(A) of the Act, we based selling expenses, G&A, and profit on the amounts incurred and realized by Polyplex and Ester, respectively, in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country.

#### F. Level of Trade/CEP Offset

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 EP or CEP transaction. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). See 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.*; see also *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa (CTL Plate from South Africa)*, 62 FR 61731, 61732 (November 19, 1997). In order to determine whether the comparison 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, class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to 19 CFR 351.412(c), in identifying levels of trade for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices),<sup>4</sup> 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. See *Micron Technology, Inc. v. United States*, 243 F3d 1301, 1314-1315 (Fed. Cir. 2001).

When the Department is unable to match U.S. sales to 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 practicable, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if a NV LOT is more remote from the factory than the CEP LOT and we are unable to make a level of trade adjustment, the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. See *CTL Plate from South Africa*.

We obtained information from each respondent regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed by the respondents for each channel of distribution. While neither company requested a LOT adjustment, both companies requested a CEP offset.

Ester reported home market sales to three customer categories through three distribution channels. Polyplex reported home market sales to two customer categories through two channels of distribution. Both respondents offer to their respective customers in these distribution channels selling services such as order booking, freight, inventory maintenance, technical assistance and general customer service. Based on an analysis of the selling functions performed in the home market channel of distribution, we find that each respondent's home market sales comprise a single LOT.

Similarly, for its U.S. sales, Ester reported EP sales to the same three customer categories through one channel of distribution, and CEP sales to the same three customer categories through a second channel of distribution. For its U.S. sales, Polyplex reported EP sales to one customer category through one channel of distribution, and CEP sales to two customer categories through a second channel of distribution. Further, for EP sales, both respondents offer their U.S. customers similar selling functions to those made in the home market (order booking, freight, inventory maintenance, technical assistance and general customer service).

After reviewing the U.S. market selling functions reported by Polyplex and Ester, and after deducting the CEP selling expenses incurred by Spectrum and EIUL (their U.S. affiliates, respectively), we found that Polyplex and Ester provided a qualitatively different degree of services on EP sales than they did on CEP sales. Both

<sup>4</sup> Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, G&A and profit for CV, where possible.

respondents provided various degrees of selling functions on their EP sales, but virtually none on their CEP sales. Therefore, we find that each respondent's selling functions were sufficiently different in their two reported channels of distribution to warrant a determination that two separate LOTs exist in the United States for both respondents.

In their responses, neither Polyplex nor Ester claimed a LOT adjustment. However, both companies requested a CEP offset claiming that their NV LOTs were more remote from the factory than their CEP LOTs.

In determining whether separate LOTs actually existed in the home market and U.S. market for each respondent, we examined whether each respondent's sales in the two markets involved different marketing stages (or their equivalent) based on the channel of distribution, customer categories and selling functions reported. In analyzing each company's selling activities for EP sales, we noted that the sales involved basically the same selling functions as those associated with the home market LOT described above. Therefore, based upon this conclusion, we have determined that the LOT for each respondent's EP sales is the same as that of its home market sales.

Lastly, our preliminary analysis demonstrates that the home market LOTs are different from, and constitute a more advanced stage of distribution than, the CEP LOTs because after making the CEP deductions under section 772(d) of the Act, the home market LOTs include significantly more selling functions than the CEP LOTs. Therefore, because of the nature of selling functions, we find that the home market LOTs are at a different, more advanced marketing stage than the CEP LOTs. Consequently, since NV is established at a LOT which constitutes a more advanced LOT than the LOT of the CEP, and the data do not provide an appropriate basis upon which to determine a LOT adjustment (each company has only one level of trade in the home market), we conclude that Ester and Polyplex are each entitled to a CEP offset to NV. See the December 13, 2001, memoranda to the file regarding Ester and Polyplex: *Level of Trade Analyses*.

#### Currency Conversions

We made currency conversions into U.S. dollars in accordance with section 773A of the Act based on exchange rates in effect on the dates of the U.S. sales, as obtained from the Federal Reserve Bank, the Department's preferred source for exchange rates.

#### Verification

In accordance with section 782(i) of the Act, we intend to verify all information relied upon in making our final determination.

#### All Others Rate

Section 735(c)(5)(A) of the Act provides for the use of an "all others" rate, which is applied to non-investigated firms. See *Statement of Administrative Actions, Uruguay Round Agreements Act*, Pub. L. No. 103.465, 103rd Cong. 2d Sess., H. Doc. 103-316, vol. I (1994) (SAA) at 873. This section states that the all others rate shall generally be an amount equal to the weighted average of the weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and *de minimis* margins, and any margins based entirely upon the facts available. Therefore, since Polyplex has a *de minimis* margin, we have preliminarily assigned to all other exporters of PET film from India, a margin that is based on the weighted-average margin calculated for Ester.

#### Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of PET film from India, except for exports by Polyplex, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Because the estimated weighted-average dumping margin for Polyplex is *de minimis*, we are not directing the Customs Service to suspend liquidation of entries of merchandise from this company from India. We are also instructing the Customs Service to require a cash deposit or the posting of a bond equal to the dumping margin for all entries of PET film from India, except for exports by Polyplex. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Manufacturer/exporter	Margin (percent)
Ester Industries Limited .....	2.96
Polyplex Corporation Limited .....	1.38
All Others .....	2.96

#### Disclosure

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties of the proceedings in these

investigations in accordance with 19 CFR 351.224(b).

#### International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our sales at LTFV determination. If our final antidumping determination is affirmative, the ITC will determine whether the imports covered by that determination are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

#### Public Comment

Case briefs for this investigation must be submitted no later than one week after the issuance of the last verification report. Rebuttal briefs must be filed within five days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we would appreciate it if parties submitting written comments would provide the Department with an additional copy of the public version of any such comments on diskette.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in an investigation, the hearing will normally be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. In the event that the Department receives requests for hearings from parties to more than one PET film case, the Department may schedule a single hearing to encompass all those cases. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs.

As noted above, the final determination will be issued within 135 days after the date of the publication of the preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: December 15, 2001.

**Faryar Shirzad,**

*Assistant Secretary for Import Administration.*

[FR Doc. 01-31515 Filed 12-20-01; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-583-816]

#### **Certain Stainless Steel Butt-Weld Pipe Fittings From Taiwan: Final Results of Antidumping Duty Administrative Review**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of final results in the antidumping duty administrative review of certain stainless steel butt-weld pipe fittings from Taiwan.

**SUMMARY:** On July 12, 2001, the Department of Commerce ("Department") published the preliminary results of the administrative review of the antidumping duty order on certain stainless steel butt-weld pipe fittings from Taiwan. This review covers one manufacturer/exporter of the subject merchandise. The period of review ("POR") is June 1, 1999 through May 31, 2000.

We gave interested parties an opportunity to comment on the preliminary results. Based upon our analysis of the comments received, we have made changes in the margin calculation. Therefore, the final results differ from the preliminary results of this review. The final weighted-average dumping margin is listed below in the section titled "Final Results of the Review."

**EFFECTIVE DATE:** December 21, 2001.

**FOR FURTHER INFORMATION CONTACT:** James C. Doyle or Alex Villanueva, Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230, telephone 202-482-0159 (Doyle) or 202-482-6412 (Villanueva), fax 202-482-1388.

**SUPPLEMENTARY INFORMATION:**

#### **Applicable Statute**

Unless otherwise indicated, all citations to the Tariff Act of 1930 ("Act") are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR part 351 (2000).

#### **Background**

On June 16, 1993, the Department published the antidumping duty order on certain stainless steel butt-weld pipe fittings from Taiwan. *See Certain Welded Stainless Steel Butt-Weld Pipe Fittings From Taiwan: Final Determination and Antidumping Order*, 58 FR 33250 (June 16, 1993). On June 20, 2000, we published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on certain stainless steel butt-weld pipe fittings from Taiwan covering the period June 1, 1999 through May 31, 2000. *See Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, Or Suspended Investigation* 65 FR 38242 (June 20, 2000). On June 20, 2000, respondent, Ta Chen Stainless Steel Pipe Ltd., ("Ta Chen"), requested that the Department conduct an administrative review of Ta Chen for the period of June 1, 1999 through May 31, 2000. On June 30, 2000, Markovitz Enterprises, Inc. (Flowline Division), Alloy Piping Products Inc., Gerlin, Inc., and Taylor Forge, (collectively, "Petitioners") requested that the Department conduct an administrative review of Ta Chen for the period of June 1, 1999 through May 31, 2000. On July 31, 2000, in accordance with section 751(a) of the Act, the Department published a notice of initiation of this antidumping duty administrative review for the period of June 1, 1999 through May 31, 2000. *See Notice of Initiation of Antidumping or Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 65 FR 46687 (July 31, 2000). On July 12, 2001, the Department published the preliminary results of the administrative review in the **Federal Register**. *See Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan: Preliminary Results of Antidumping Duty Administrative Review*, 66 FR 36555 (July 12, 2001) ("Preliminary Results"). We gave interested parties an opportunity to comment on our *Preliminary Results*. Ta Chen and Petitioners filed briefs on August 21, 2001. On August 27, 2001,

Ta Chen and Petitioners filed rebuttal briefs. No hearing was requested or held. The date for issuing the final results of the review was November 9, 2001. Because of complex issues in this proceeding, the Department extended the time limit for the final results by 30 days in accordance with section 751(a)(3)(A) of the Act. *See Notice of Extension of Final Results of Antidumping Duty Review: Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan*, 66 FR 55639 (November 2, 2001). The date for issuing the final results was moved from November 9, 2001 to December 10, 2001. The Department has conducted and completed the administrative review in accordance with section 751 of the Act.

#### **Scope of the Review**

The merchandise subject to this administrative review is certain stainless steel butt-weld pipe fittings ("SSBWPF") whether finished or unfinished, under 14 inches inside diameter. Certain SSBWPF are used to connect pipe sections in piping systems where conditions require welded connections. The subject merchandise is used where one or more of the following conditions is a factor in designing the piping system: (1) Corrosion of the piping system will occur if material other than stainless steel is used; (2) contamination of the material in the system by the system itself must be prevented; (3) high temperatures are present; (4) extreme low temperatures are present; and (5) high pressures are contained within the system.

Pipe fittings come in a variety of shapes, with the following five shapes the most basic: "elbows", "tees", "reducers", "stub-ends", and "caps." The edges of finished pipe fittings are beveled. Threaded, grooved, and bolted fittings are excluded from this review. The pipe fittings subject to this review are classifiable under subheading 7307.23.00 of the Harmonized Tariff Schedule of the United States ("HTSUS").

Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the review is dispositive. Pipe fittings manufactured to American Society of Testing and Materials specification A774 are included in the scope of this order.

During this administrative review, the Department received a scope ruling request on April 12, 2001 and in accordance with 19 CFR 351.225(k)(2) from Allegheny Bradford Corporation d/b/a Top Line Process Equipment Company ("Top Line"), for a scope ruling on whether stainless steel butt-