

DEPARTMENT OF COMMERCE**International Trade Administration****[A-583-833]****Certain Polyester Staple Fiber From Taiwan: Preliminary Results of Antidumping Duty Administrative Review**

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain polyester staple fiber (PSF) from Taiwan. The period of review (POR) is May 1, 2010, through April 30, 2011. This review covers imports of certain PSF from one producer/exporter, Far Eastern New Century Corporation (FENC). We have preliminarily found that sales of the subject merchandise have been made below normal value. If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. We are also rescinding the review in part for one firm, Nan Ya Plastics Corporation, for which the request for review was withdrawn in a timely manner. Interested parties are invited to comment on these preliminary results. We will issue the final results not later than 120 days after the date of publication of this notice.

DATES: *Effective Date:* June 1, 2012.

FOR FURTHER INFORMATION CONTACT:

Michael A. Romani or Minoo Hatten, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington DC 20230; telephone (202) 482-0198 or (202) 482-1690, respectively.

Background

On June 28, 2011, the Department published a notice initiating an administrative review of the antidumping duty order on certain PSF from Taiwan covering the respondents FENC (formerly known as Far Eastern Textiles Co., Ltd.¹) and Nan Ya Plastics Corporation (Nan Ya).²

¹ On July 8, 2010, the Department published a notice determining that FENC was the successor-in-interest to Far Eastern Textiles Limited. See *Polyester Staple Fiber From Taiwan: Final Results of Changed-Circumstances Antidumping Duty Administrative Review*, 75 FR 39208 (July 8, 2010).

² See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 76 FR 37781 (June 28, 2011).

On January 30, 2012, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), the Department extended the due date for the preliminary results by 85 days from the original due date of January 31, 2012, to April 25, 2012.³ Further, on April 11, 2012, the Department extended the due date for the preliminary results by an additional 35 days to May 30, 2012.⁴

Scope of the Order

The product covered by the order is PSF. PSF is defined as synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The merchandise subject to the order may be coated, usually with a silicon or other finish, or not coated. PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture. Merchandise of less than 3.3 decitex (less than 3 denier) currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 5503.20.00.20 is specifically excluded from the order. Also specifically excluded from the order are PSF of 10 to 18 denier that are cut to lengths of 6 to 8 inches (fibers used in the manufacture of carpeting). In addition, low-melt PSF is excluded from the order. Low-melt PSF is defined as a bi-component fiber with an outer sheath that melts at a significantly lower temperature than its inner core.

The merchandise subject to the order is currently classifiable in the HTSUS at subheadings 5503.20.00.45 and 5503.20.00.65. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Rescission of Review in Part

In accordance with 19 CFR 351.213(d), the Department will rescind an administrative review in part “if a party that requested a review withdraws the request within 90 days of the date of the publication of notice of initiation of the requested review.” Subsequent to the initiation of these reviews, we received a timely withdrawal of the

request we had received for the review of Nan Ya. Because the Department received no other requests for review of Nan Ya, we are rescinding the review with respect to Nan Ya in accordance with 19 CFR 351.213(d)(1).

Date of Sale

Section 351.401(i) of the Department’s regulations states that the Department normally will use the date of invoice, as recorded in the producer’s or exporter’s records kept in the ordinary course of business, as the date of sale. The regulation provides further that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established. The Department has a long-standing practice of finding that, where shipment date from the factory precedes invoice date, shipment date better reflects the date on which the material terms of sale are established.⁵

With respect to FENC’s sales to the United States, shipment date usually occurs on or before the date of invoice. The date of shipment is the date on which goods are shipped from the factory. The date of invoice is the date on which the Government Uniform Invoice is issued. Further, based on record evidence, all material terms of sale are established at the time of shipment and do not change prior to the issuance of the invoice. Therefore, we used the date of shipment as the date of sale where shipment date preceded the date of invoice in accordance with our practice. Where the date of invoice preceded the shipment date we used the date of invoice for the date of sale.

For the majority of FENC’s home market sales, the goods are shipped from the factory on the same day that the Government Uniform Invoice is issued. For the remaining sales, the invoice date occurs a few days after the date of shipment from the factory. Based on record evidence, all material terms of sale are established at the time of shipment. There is no evidence on the record that there were order changes in the few days between the date of shipment and the issuance of the Government Uniform Invoice. Based upon these facts and in accordance with

⁵ See *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10; see also *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From Germany*, 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2.

³ See *Certain Polyester Staple Fiber From Taiwan: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 77 FR 4543 (January 30, 2012).

⁴ See *Certain Polyester Staple Fiber From Taiwan: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 77 FR 21733 (April 11, 2012).

our practice, we preliminarily determine that shipment date is the appropriate date of sale for all home market sales.

Fair Value Comparison

To determine whether FENC's sales of the subject merchandise from Taiwan to the United States were at prices below normal value, we compared the export price to the normal value as described in the "Export Price" and "Normal Value" sections of this notice. Pursuant to 19 CFR 351.414(c)(1) and (d), we compared the monthly weighted-average export price of U.S. transactions to the monthly weighted-average normal value of the comparable foreign like product where there were sales made in the ordinary course of trade.⁶

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products covered by the "Scope of the Order" section above produced and sold by FENC in the comparison market during the POR to be foreign like product for the purposes of determining appropriate product comparisons to U.S. sales of subject merchandise. We made comparisons to weighted-average comparison market prices that were based on all sales which passed the cost-of-production test and on those sales which did not pass the cost-of-production test but were made at prices which were considered to have provided for the recovery of costs within a reasonable period of time. Specifically, in making our comparisons, if an identical home market model was reported, we made comparisons to monthly weighted-average home market prices that were based on all relevant sales during the contemporary month or, lacking such sales, to a previous or subsequent month in the shorter cost period (See "Cost Averaging Methodology" below). If there were no sales of an identical model available for comparison during the relevant months we substituted the most similar above cost home market model. If there were no home market models with a difference in merchandise of less than twenty percent available we used constructed value for

comparison purposes. We calculated the weighted-average comparison market prices on a level of trade-specific basis.

Export Price

For sales to the United States, we calculated export price in accordance with section 772(a) of the Act because the merchandise was sold prior to importation by the exporter or producer outside the United States to the first unaffiliated purchaser in the United States and because constructed export price methodology was not otherwise warranted. We calculated export price based on the free-on-board or cost-insurance-and-freight price to unaffiliated purchasers in the United States. Where appropriate, we made deductions, consistent with section 772(c)(2)(A) of the Act, for the following movement expenses: Inland freight from the plant to the port of exportation, inland insurance in Taiwan, brokerage and handling, harbor construction fee, trade promotion fees, containerization expenses, international freight, and marine insurance. No other adjustments were claimed or applied.

Normal Value

A. Home Market Viability as Comparison Market

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

B. Level of Trade

In accordance with section 773(a)(1)(B) of the Act and the Statement of Administrative Action accompanying the Uruguay Round Agreements Act (see H.R. Doc. No. 316, 103d Cong., 2d Sess. 829–831 (1994)), to the extent practicable, we determine normal value based on sales in the comparison market at the same level of trade as the export price. Pursuant to 19 CFR 351.412(c)(1), the normal value level of trade is based on the starting price of the sales in the comparison market or, when normal value is based on constructed value, the starting price of the sales from which we derive

selling, general, and administrative expenses and profit. For export price sales, the U.S. level of trade is based on the starting price of the sales in the U.S. market, which is usually from the exporter to the importer.

To determine whether comparison market sales are at a different level of trade than export price sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. See 19 CFR 351.412(c)(2). If the comparison market sales are at a different level of trade and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which normal value is based and the comparison market sales at the level of trade of the export transaction, we make a level of trade adjustment under section 773(a)(7)(A) of the Act.

In implementing these principles in this review, we obtained information from FENC regarding the marketing stages involved in making its reported home market and U.S. sales for each channel of distribution. FENC reported one channel of distribution (*i.e.*, direct sales to distributors) and a single level of trade in the U.S. market. For purposes of these preliminary results, we have organized the common selling functions into four major categories: Sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services. Because the sales process and selling functions FENC performed for selling to the U.S. market did not vary by individual customers, the necessary condition for finding they constitute different levels of trade was not met. Accordingly, we preliminarily determined that all of FENC's U.S. sales constitute a single level of trade.

FENC reported a single channel of distribution (*i.e.*, direct sales to end-users) and a single level of trade in the home market. Because the sales process and selling functions FENC performed for selling to home market customers did not vary by individual customers, we preliminarily determine that all of FENC's home market sales constitute a single level of trade.

We found that the export price level of trade was similar to the home market level of trade in terms of selling activities. Specifically, the levels of expense were similar for the selling functions FENC provided in both markets. Accordingly, we considered the export price level of trade to be similar to the home market level of trade and not at a different stage of distribution than the home market level

⁶In these preliminary results, the Department applied the weighted-average dumping margin calculation method adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8101 (February 14, 2012). In particular, the Department compared monthly weighted-average export prices with monthly weighted-average normal values and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

of trade. Therefore, we matched export price sales to sales at the same level of trade in the home market and no level of trade adjustment under section 773(a)(7)(A) of the Act was necessary.

C. Cost of Production Analysis

In the last administrative review of the order completed prior to the initiation of this review, the Department determined that FENC sold the foreign like product at prices below the cost of producing the merchandise and, as a result, we excluded such sales from the calculation of normal value.⁷ Therefore, pursuant to section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that FENC's sales of the foreign like product under consideration for the determination of normal value in the instant review may have been made at prices below cost of production (COP) as provided by section 773(b)(2)(A)(ii) of the Act and, therefore, outside of the ordinary course of trade. Pursuant to section 773(b)(1) of the Act, we have conducted a COP investigation of FENC's sales in the comparison market (sales below cost test).

1. Cost Averaging Methodology

The Department's normal practice is to calculate an annual weighted-average cost for the POR.⁸ However, we recognize that possible distortions may result if we use our normal annual-average cost method during a time of significant cost changes. In determining whether to deviate from our normal methodology of calculating an annual weighted-average cost, we evaluate the case-specific record evidence using two primary factors: (1) The change in the cost of manufacturing (COM) recognized by the respondent during the POR must be deemed significant; (2) the record evidence must indicate that sales during the shorter cost-averaging periods could be reasonably linked with the COP or constructed value during the same shorter cost-averaging periods.⁹

⁷ See *Certain Polyester Staple Fiber From Taiwan: Final Results of Antidumping Duty Administrative Review*, 75 FR 43921 (July 27, 2010).

⁸ See *Certain Pasta From Italy: Final Results of Antidumping Duty Administrative Review*, 65 FR 77852 (December 13, 2000), and accompanying Issues and Decision Memorandum at Comment 18, and *Notice of Final Results of Antidumping Duty Administrative Review: Carbon and Certain Alloy Steel Wire Rod from Canada*, 71 FR 3822 (January 24, 2006), and accompanying Issues and Decision Memorandum at Comment 5 (explaining the Department's practice of computing a single weighted-average cost for the entire period).

⁹ See *Stainless Steel Sheet and Strip in Coils From Mexico: Final Results of Antidumping Duty Administrative Review*, 75 FR 6627 (February 10, 2010) (*SSSS from Mexico*), and accompanying Issues and Decision Memorandum at Comment 6

a. Significance of Cost Changes

In prior cases, we established 25 percent as the threshold (between the high- and low- quarter COM) for determining that the changes in COM are significant enough to warrant a departure from our standard annual-average cost approach.¹⁰ In the instant case, record evidence shows that FENC experienced significant changes (*i.e.*, changes that exceeded 25 percent) between the high and low quarterly COM during the POR.¹¹ This change in COM is attributable primarily to the price volatility for purified terephthalic acid (PTA) and monoethylene glycol (MEG) used in the manufacture of PSF. *Id.*

b. Linkage Between Cost and Sales Information

Consistent with past precedent, because we found the changes in costs to be significant, we evaluated whether there is evidence of a linkage between the cost changes and the sales prices during the POR.¹² Absent a surcharge or other pricing mechanism, the Department may alternatively look for evidence of a pattern that changes in selling prices reasonably correlate to changes in unit costs.¹³ To determine whether a reasonable correlation existed between the sales prices and underlying costs during the POR, we compared weighted-average quarterly prices to the corresponding quarterly COM for the control numbers with the highest volume of sales in the comparison market and in the United States. Our comparison revealed that sales and costs for all of the selected control numbers for FENC showed reasonable correlation. See FENC Cost Calculation Memo at 2–3. After reviewing this information and determining that changes in selling prices correlate reasonably to changes in unit costs, we preliminarily determine that there is linkage between FENC's changing sales

and *Stainless Steel Plate in Coils From Belgium: Final Results of Antidumping Duty Administrative Review*, 73 FR 75398 (December 11, 2008) (*SSPC from Belgium*), and accompanying Issues and Decision Memorandum at Comment 4.

¹⁰ See *SSPC from Belgium* and accompanying Issues and Decision Memorandum at Comment 4.

¹¹ See Memorandum from Stephanie Arthur to Neal M. Halper, Director of Office of Accounting, entitled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results—Far Eastern New Century Corporation" (FENC Cost Calculation Memo), dated concurrently with this notice at 2.

¹² See *SSSS from Mexico* and accompanying Issues and Decision Memorandum at Comment 6 and *SSPC from Belgium* and accompanying Issues and Decision Memorandum at Comment 4.

¹³ See *SSPC from Belgium* and accompanying Issues and Decision Memorandum at Comment 4.

prices and costs during the POR.¹⁴ We have preliminarily determined that a shorter cost period approach, based on a quarterly-average COP, is appropriate for FENC because we have found significant cost changes in COM as well as reasonable linkage between costs and sales prices.

2. Calculation of Cost of Production

Before making comparisons to normal value, we conducted a COP analysis of FENC's sales pursuant to section 773(b)(3) of the Act to determine whether home market sales were made at prices below COP and that these costs were not recoverable within a reasonable period of time. For this analysis, the COP is based on a shorter cost-period COP average rather than a period-average COP. See the "Cost Averaging Methodology" section, above, for further discussion. We calculated FENC's quarterly COP on a product-specific basis, based on the sum of the FENC's cost of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses, interest expenses, and the costs of all expenses incidental to packing the merchandise. We relied on the COP information FENC submitted in its response to our cost questionnaire, including FENC's reported quarterly adjustment to its cost of manufacturing information which accounts for purchases of PTA and MEG from affiliated parties at non-arm's length prices, in accordance with the major input rule of section 773(f) of the Act. See Exhibit 2SE–3–4 of FENC's March 9, 2012 response. For control numbers for which there was no production during the POR or during a POR quarter we chose or calculated surrogates respectively.¹⁵

3. Test of Comparison Market Sales Prices

As required under section 773(b)(2) of the Act, we compared the quarterly weighted average COP to the per-unit price of the comparison market sales of the foreign like product to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities. We determined the net

¹⁴ *Id.*; see also *SSSS from Mexico* and accompanying Issues and Decision Memorandum at Comment 6 and *SSPC from Belgium* and accompanying Issues and Decision Memorandum at Comment 4.

¹⁵ See Memorandum from Michael Romani to the File, entitled "Certain Polyester Staple Fiber from Taiwan: Far Eastern New Century Corporation Analysis Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order" dated concurrently with this notice at 9.

comparison market prices for the below cost test by subtracting from the gross unit price any applicable movement charges, discounts, rebates, direct and indirect selling expenses, and packing expenses.

4. Cost Recovery Analysis

In accordance with sections 773(b)(1)(A) and (B) of the Act, for sales found to be made below cost, we examined whether, within an extended period of time, such sales were made in substantial quantities, and whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. As stated in section 773(b)(2)(D) of the Act, prices are considered to provide for recovery of costs if such prices are above the weighted average per-unit COP for the period of investigation or review.

In light of the Court's directives in *SeAH Steel Corp. v. United States*, 704 F. Supp. 2d 1353 (Ct. Int'l Trade 2010), and *SeAH Steel Corporation v. United States*, 764 F. Supp. 2d 1322 (Ct. Int'l Trade 2011) to use an unadjusted annual average cost for purposes of the cost recovery test, in the instant review we have used the approach which we adopted recently to test for cost recovery when using an shorter cost period methodology.¹⁶ Using the methodology adopted in *SPT from Turkey*, we calculated a control number specific weighted-average annual price using only those sales that were made below their quarterly COP, and compared the resulting weighted-average price to the annual weighted-average cost per control number. If the annual weighted-average price per control number was above the annual weighted-average cost per control number then we considered those sales to have provided for the recovery of costs and restored all such sales to the normal value pool of comparison-market sales available for comparison with U.S. sales. For further details regarding the cost recovery methodology and the application of our shorter-cost period methodology, see the FENC Cost Calculation Memo at 1–2.

5. Results of the Sales Below Cost Test

We found that for certain products, more than 20 percent of the respondent's home market sales were made at prices below COP and, in addition, these below cost sales were made within an extended period of time and in substantial quantities. In addition, pursuant to the cost recovery

analysis described above, we found that these sales were at prices which did not permit the recovery of costs within a reasonable period of time. We therefore disregarded these sales from the calculation of normal value, in accordance with section 773(b)(1) of the Act.

E. Calculation of Normal Value Based on Comparison Market Prices

We calculated normal value based on the price FENC reported for home market sales to unaffiliated customers which we determined were within the ordinary course of trade. We made adjustments for differences in domestic and export packing expenses in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act. We also made adjustments, consistent with section 773(a)(6)(B)(ii) of the Act, for inland freight expenses from the plant to the customer and expenses associated with loading the merchandise onto the truck to be shipped. In addition, we made adjustments for differences in circumstances of sale in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We made these adjustments, where appropriate, by deducting direct selling expenses incurred on home market sales (*i.e.*, imputed credit expenses and warranties) and adding U.S. direct selling expenses (*i.e.*, imputed credit expenses and bank charges) to normal value.

F. Calculation of Normal Value Based on Constructed Value

Section 773(a)(4) of the Act provides that where normal value cannot be based on comparison market sales, normal value may be based on constructed value (CV). Accordingly, for certain sales made by FENC, we based normal value on CV because there were no home market sales in the ordinary course of trade that could be properly compared to those U.S. sales.

Section 773(e)(2)(A) 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 selling, general and administrative expense (including financing expenses), profit, and U.S. packing costs. We calculated respondent's quarterly materials, general and administrative, and financing costs as described in the "Cost of Production Analysis" section above.

For comparisons to export price, we made adjustments to CV for circumstances of sale differences, in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. We made circumstances of sale adjustments by

deducting direct selling expenses incurred on comparison market sales and adding U.S. direct selling expenses.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that a weighted-average dumping margin of 0.00 percent exists for FENC for the period May 1, 2010, through April 30, 2011.

Public Comment

We will disclose the documents resulting from our analysis to parties in this review within five days of the date of publication of this notice. See 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of the publication of this notice in the **Federal Register**. See 19 CFR 351.310(c). If a hearing is requested, the Department will notify interested parties of the hearing schedule.

Interested parties are invited to comment on the preliminary results of this review. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication of this notice. Parties who submit case briefs or rebuttal briefs in this review are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument with an electronic version included.

We intend to issue the final results of this review, including the results of our analysis of issues raised in any submitted written comments, within 120 days after publication of this notice.

Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. FENC reported the name of the importer of record and the entered value for all of its sales to the United States during the POR. If FENC's weighted-average dumping margin is above *de minimis* in the final results of this review, we will calculate an importer-specific assessment rate on the basis of the ratio of the total amount of antidumping duties calculated for the importer's examined sales and the total entered value of those sales in accordance with 19 CFR 351.212(b)(1).

The Department clarified its "automatic assessment" regulation on May 6, 2003. This clarification will apply to entries of subject merchandise during the POR produced by FENC for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to

¹⁶ See *Certain Welded Carbon Steel Pipe and Tube From Turkey; Notice of Final Results of Antidumping Duty Administrative Review*, 76 FR 76939 (December 9, 2011) (*SPT From Turkey*).

liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

We intend to issue instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of PSF from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for FENC will be the rate established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) if neither the exporter nor the manufacturer is a firm covered in this review, the cash deposit rate will be 7.31 percent, the all-others rate established in *Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber From the Republic of Korea and Antidumping Duty Orders: Certain Polyester Staple Fiber From the Republic of Korea and Taiwan*, 65 FR 33807 (May 25, 2000).

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: May 24, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

[FR Doc. 2012-13372 Filed 5-31-12; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-428-602]

Brass Sheet and Strip From Germany: Notice of Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

DATES: *Effective Date:* June 1, 2012.

FOR FURTHER INFORMATION CONTACT: Dennis McClure or George McMahon, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-5973 or (202) 482-1167, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 1, 2012, the Department published in the **Federal Register** the notice of opportunity to request an administrative review of the antidumping duty order on brass sheet and strip from Germany for the period of review ("POR"), March 1, 2011, through February 29, 2012.¹

On April 2, 2012, the petitioners² timely requested that the Department conduct an administrative review of the following ten producers/exporters of brass sheet and strip from Germany: Aurubis Stolberg GmbH & Co. KG ("Aurubis"), Carl Schreiber GmbH ("Schreiber"), KME Germany AG & Co. KG ("KME"), Messingwerk Plettenberg Herfeld GmbH & Co. KG ("Messingwerk"), MKM Mansfelder Kupfer & Messing GmbH ("MKM"), Schlenk Metallfolien GmbH & Co. KG ("Schlenk"), Schwermetall Halbzeugwerk GmbH & Co. KG ("Schwermetall"), Sundwiger Messingwerke GmbH & Co. KG ("Sundwiger"), ThyssenKrupp VDM GmbH ("ThyssenKrupp"), and Wieland-Werke AG ("Wieland"). Pursuant to this

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 77 FR 12559 (March 1, 2012).

² GBC Metals, LLC of Global Brass and Copper, Inc., dba Olin Brass, Heyco Metals, Inc., Aurubis Buffalo, Inc., PMX Industries, Inc., and Revere Copper Products, Inc.

request and in accordance with 19 CFR 351.221(c)(1)(i), the Department published a notice initiating the administrative review of Aurubis, Schreiber, KME, Messingwerk, MKM, Schlenk, Schwermetall, Sundwiger, ThyssenKrupp, and Wieland.³

On May 3, 2012, the Department placed on the record and invited interested parties to comment on U.S. Customs and Border Protection ("CBP") data. See Memorandum to the File from George McMahon, Senior International Trade Analyst, through Melissa Skinner, Office Director, concerning "2011-2012 Antidumping Duty Administrative Review of Brass Sheet and Strip from Germany: Release of Customs and Border Protection ("CBP") Data," dated May 3, 2012. The CBP data query results indicated no entries of subject merchandise during the POR from the ten producers/exporters for which a review was requested.

On May 10, 2012, Schwermetall and Wieland submitted comments on the CBP data, stating that this data indicates that none of the ten companies for which a review was requested is identified in any entry of subject merchandise during the POR. Schwermetall and Wieland further state that there are no entries for the Department to review, and no basis on which the Department may select respondents. Therefore, Schwermetall and Wieland assert that the Department should rescind the instant review.

On May 14, 2012, the petitioners timely withdrew their request for an administrative review of Aurubis, Schreiber, KME, Messingwerk, MKM, Schlenk, Schwermetall, Sundwiger, ThyssenKrupp, and Wieland; all of the companies for which they requested review.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if the parties that requested a review withdraw the request within 90 days of the date of publication of the notice of initiation of the requested review. As noted above, petitioners withdrew their request for review of Aurubis, Schreiber, KME, Messingwerk, MKM, Schlenk, Schwermetall, Sundwiger, ThyssenKrupp, and Wieland (all of the companies for which they requested a review) within 90 days of the date of publication of the notice of initiation. Moreover, no other interested party

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 77 FR 25401 (April 30, 2012).