

entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation (*i.e.*, January 26, 2004).

#### Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: June 9, 2004.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

#### Appendix—Issues in the Decision Memorandum

1. All-Others Rate
2. Rejection of Bee Lian's Response and Application of Total Adverse Facts Available
3. Determination of Production and Sales Quantities
4. Offset to Cost of Manufacturing (COM) for the Sale of Recycled Resin Produced from Scrap and Misprinted Bags
5. Value of Recycled Resin Used in Production
6. Average Resin Cost by Type
7. Application of Auditors Year-End Adjustments
8. General, Administrative and Financial Expenses of Affiliated Companies
9. Treatment of Glue Spots as Cost of Materials Instead of Packing Cost
10. Billing Adjustments
11. Affiliation of Bee Lian and Certain U.S. Customers

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-887]

#### Final Determination of Sales at Less Than Fair Value: Tetrahydrofurfuryl Alcohol From the People's Republic of China

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

**ACTION:** Notice of final determination of sales at less than fair value.

**EFFECTIVE DATE:** June 18, 2004.

#### FOR FURTHER INFORMATION CONTACT:

Catherine Bertrand or Peter Mueller, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-3207 and (202) 482-5811, respectively.

#### Final Determination

We determine that tetrahydrofurfuryl alcohol from the People's Republic of China ("PRC") is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 735 of the Tariff Act of 1930, as amended ("the Act"). The estimated margin of dumping is shown in the "Continuation of Suspension of Liquidation" section of this notice.

#### Case History

We published in the **Federal Register** the preliminary determination in this investigation on January 27, 2004. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Tetrahydrofurfuryl Alcohol from the People's Republic of China*, 69 FR 3887 (January 27, 2004) ("Preliminary Determination"). Since the publication of the *Preliminary Determination*, the following events have occurred.

On February 4, 2004, the respondent, Qingdao (F.T.Z.) Wenkem Trading Company, Ltd. ("QWTC"), submitted its Section D supplemental questionnaire response. Also on February 4, 2004, the Department received pre-verification comments from the petitioner.

From February 9 through 12, 2004, the Department conducted a factors of production verification at Zhucheng Huaxiang Chemical Co., Ltd. ("ZHC"). On February 13, 2004, the Department conducted a sales verification at QWTC.

On February 24, 2004, the petitioner submitted a request for a public hearing in accordance with 19 CFR 351.310(c). On April 28, 2004, the petitioner withdrew its request for a hearing. Because the petitioner was the only party to request a hearing, and because it was withdrawn in a timely manner, the Department did not conduct a hearing.

On February 27, 2004, the Department received a request from QWTC for a postponement of the final determination. On March 15, 2004, the Department postponed the final determination, in accordance with section 735(a)(2) of the Act by no later than 135 days after the publication of preliminary determination in the **Federal Register**. Therefore, the final determination was postponed until June 10, 2004. See *Notice of Postponement of Final Determination of Antidumping*

*Duty Investigation: Tetrahydrofurfuryl Alcohol from the People's Republic of China*, 69 FR 12127 (March 15, 2004).

In the *Preliminary Determination*, we stated that if we made a change in our normal calculation methodology previous to the final determination, we would release to interested parties for comment a preliminary calculation sheet and analysis memorandum using that methodology. On March 9, 2004, the Department released to the interested parties its post-preliminary calculation, which included a factor value memorandum, an analysis memorandum with an attachment, and a print-out of the log for the margin calculation. See post-preliminary calculation.

On March 10, 2004, the Department released its factors of production and sales verification report to interested parties. See *Verification of Factors of Production for Zhucheng Huaxiang Chemical Co., Ltd. ("ZHC") and for the Sales of Qingdao Wenkem (F.T.Z.) Trading Co., Ltd. ("QWTC") in the Antidumping Duty Investigation of Tetrahydrofurfuryl Alcohol from the People's Republic of China ("PRC") ("Verification Report")*.

On March 15, 2004, the petitioner requested an extension for the time limit for submitting the case briefs and rebuttal briefs. On March 16, 2004, the Department granted interested parties a sixteen-day extension for submission of the case briefs and explained that the rebuttal briefs would be due five days thereafter.

On March 19, 2004, QWTC submitted comments to the Department's post-preliminary calculation.

On March 23, 2004, the petitioner placed on the record public information for the purpose of providing the Department with additional information to be used in valuing the factors of production.

On April 5, 2004, the petitioner submitted its case brief with respect to the sales and factors of production verification and the Department's *Preliminary Determination*. On April 5, 2004, QWTC submitted its "Comments on the Calculation of Normal Value" with respect to the sales and factors of production verification and the Department's preliminary determination. On April 7, 2004, the Department placed a memorandum in the file explaining that the respondent's document titled, "Comments on the Calculation of Normal Value," was in fact the respondent's case brief. On April 7, 2004, the Department rejected both the petitioner's case brief and the respondent's case brief, concluding that the each contained new information that

was untimely filed in accordance with section 351.301(b)(1) of the Department's regulations. Also on April 7, 2004, the Department withdrew from the record all known copies of the case brief and returned them to the petitioner and respondent, in accordance with section 351.302(d)(2) of the Department's regulations.

On April 8, 2004, the petitioner submitted its revised case brief. On April 9, 2004, the respondent submitted its revised case brief.

On April 19, 2004, the petitioner submitted a rebuttal brief with respect to the sales and factors of production verification and the Department's *Preliminary Determination*. On April 19, 2004, the respondent requested an extension for submitting its rebuttal brief. On April 21, 2004, the Department received, via electronic-mail, a document containing the respondent's rebuttal brief. On April 22, 2004, the Department sent a letter to the respondent rejecting its request for an extension and rejecting the respondent's rebuttal brief. Following section 351.103(b) of the Department's regulations, the Department explained in its letter that the extension request and the rebuttal brief were both improperly filed, as they were not received in Import Administration's Dockets Center by close of business on April 19, 2004.

#### *Period of Investigation*

The period of investigation ("POI") is October 1, 2002 through March 31, 2003. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the Petition (June 23, 2003). See 19 CFR 351.204(b)(1).

#### *Scope of Investigation*

For the purpose of this investigation, the product covered is tetrahydrofurfuryl alcohol (C<sub>5</sub>H<sub>10</sub>O<sub>2</sub>) ("THFA"). THFA, a primary alcohol, is a clear, water white to pale yellow liquid. THFA is a member of the heterocyclic compounds known as furans and is miscible with water and soluble in many common organic solvents. THFA is currently classified in the Harmonized Tariff Schedules of the United States ("HTSUS") under subheading 2932.13.00.00. Although the HTSUS subheadings are provided for convenience and for the purposes of the U.S. Customs and Border Protection ("Customs"), the Department's written description of the merchandise under investigation is dispositive.

#### *Analysis of Comments Received*

All issues raised in the case briefs by the parties to this investigation are addressed in detail in the *Memorandum to James J. Jochum, Assistant Secretary for Import Administration, from Jeffrey A. May, Deputy Assistant Secretary for Import Administration, Issues and Decision Memorandum for the Less Than Fair Value Investigation of Tetrahydrofurfuryl Alcohol from the People's Republic of China*, (June 10, 2004) ("*Final Decision Memorandum*"), which is hereby adopted by this notice. A list of the issues which parties raised, and to which we have responded, all of which are in the *Final Decision Memorandum*, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in B-099. In addition, a complete version of the *Final Decision Memorandum* can be accessed directly on the World Wide Web at <http://ia.ita.doc.gov/frn/>. The paper copy and electronic version of the *Final Decision Memorandum* are identical in content.

#### *Non-Market Economy Country Status*

In our *Preliminary Determination*, we treated the PRC as a non-market economy ("NME") country. The Department has treated the PRC as a NME country in all past antidumping investigations. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China*, 65 FR 33805 (May 25, 2000). A designation as an NME remains in effect until it is revoked by the Department. See section 771(18)(C) of the Act. The respondent in this investigation has not requested a revocation of the PRC's NME status. We have, therefore, determined to continue to treat the PRC as an NME country. When the Department is investigating imports from an NME, section 773(c)(1) of the Act directs us to base the normal value on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise.

Furthermore, no interested party has requested that the THFA industry in the PRC be treated as a market-oriented industry and no information has been provided that would lead to such a determination. Therefore, we have not treated the THFA industry in the PRC as a market-oriented industry in this investigation.

#### *Separate Rates*

In our *Preliminary Determination*, we found that the respondent met the criteria for the application of separate, company-specific antidumping duty rate. For the purpose of the final determination, we continue to grant a separate, company-specific rate to the respondent. For a complete discussion of the Department's determination that the respondent is entitled to a separate rate, please see *Memorandum to the File from Peter Mueller, Case Analyst to Edward C. Yang, Director, Office IX, Antidumping Duty Investigation of Tetrahydrofurfuryl Alcohol from the People's Republic of China*, (December 22, 2003).

#### *The PRC-Wide Rate*

We are continuing to apply the same methodology to our PRC-wide rate as used in the *Preliminary Determination*. For a discussion of our methodology for the PRC-wide rate, please see *Memorandum to the File From Peter Mueller, Case Analyst, to Edward C. Yang, Office Director, Office IX, Antidumping Duty Investigation of Tetrahydrofurfuryl Alcohol from the People's Republic of China: PRC-Wide Rate*, (June 10, 2004).

#### *Surrogate Country*

For purposes of the final determination, we continue to find that India is the appropriate primary surrogate country for the PRC. For further discussion and analysis regarding the surrogate country selection, see the Department's *Preliminary Determination*.

#### *Verification*

As provided in section 782(i) of the Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondent. For changes resulting from the results of verification and from the post-preliminary calculation see *Memorandum to the File, from Peter Mueller, Case Analyst, through Robert Bolling, Program Manager, Analysis for the Final Determination of Tetrahydrofurfuryl Alcohol from the People's Republic of China*, (June 10, 2004) ("*Final Analysis Memo*").

#### *Facts Available*

For purposes of this final determination, we have determined that the use of facts available is appropriate for certain elements of the respondent's dumping margin calculations. Section

776(a)(2) of the Act provides that if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act; (C) significantly impedes a determination under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination. For a further discussion of the facts available applied to the respondent, please see the *Final Decision Memorandum* at Comment 1.

#### *Adverse Facts Available*

For purposes of this final determination, we have determined that the use of adverse facts available is appropriate for certain elements of the respondent's dumping margin calculations. Section 776(b) of the Act provides that if the administering authority or the Commission (as the case may be) finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission (as the case may be), in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available. Such adverse inference may include reliance on information derived from: (1) The petition; (2) a final determination in the investigation under this title; (3) any previous review under section 751 or determination under section 753; or (4) any other information placed on the record.

Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See Statement of Administrative Action at 870; *Borden, Inc. v. United States*, 4 F. Supp. 2d 1221 (CIT 1998); *Mannesmannrohren-Werke AG v. United States*, 77 F. Supp. 2d 1302 (CIT 1999). The Court of Appeals for the Federal Circuit, in *Nippon Steel Corporation v. United States*, 337 F. 3d 1373, 1380 (Fed. Cir. 2003), provided an explanation of the "failure to act to the best of its ability" standard, holding that the Department need not show intentional conduct existed on the part of the respondent, but merely that a "failure to cooperate to the best of a respondent's ability" existed (*i.e.*, information was not provided "under circumstances in which it is reasonable

to conclude that less than full cooperation has been shown").

The record shows that QWTC, in part, failed to cooperate to the best of its ability, within the meaning of section 776(b) of the Act. In reviewing the evidence on the record, the Department finds that the respondent failed to provide requested information at the factor of production verification for the indirect inputs used to produce the respondent's self-produced inputs of electricity, steam, hydrogen, and catalyst. As a general matter, it is reasonable for the Department to assume that the respondent possessed the records necessary to participate in the factor of production verification. However, by not supplying the information the Department requested, the respondent failed to cooperate to the best of their ability. As the respondent has failed to cooperate to the best of its ability, we are applying an adverse inference pursuant to section 776(b) of the Act to estimate the respondent's consumption of its self-produced hydrogen, steam, electricity, and catalyst. For a further discussion of the adverse facts available applied to the respondent, please see *Final Decision Memorandum*, at Comments 1, 5, 8, and 9.

#### *Changes Since the Preliminary Determination*

Based on our findings at verification, additional information placed on the record of this investigation, the post-preliminary calculation, and analysis of comments received, we have made adjustments to the methodology in calculating the final dumping margin in this proceeding. For discussions of the specific changes made since the *Preliminary Determination* to the final margin programs, please see *Final Analysis Memo*.

#### *Surrogate Values*

The Department made changes to the starting point and the surrogate values used to calculate the normal value from the *Preliminary Determination*. For a complete discussion of the starting point and the surrogate values, see *Memorandum to the File from Peter Mueller, Case Analyst, through Robert Bolling, Program Manager, and Edward C. Yang, Office Director, regarding Factor Valuations for the Final Determination* ("Final Factor Value Memo"), dated June 10, 2004.

#### *Disclosure*

We will disclose the calculations performed within five days of the date of publication of this notice to parties in

this proceeding in accordance with 19 CFR 351.224(b).

#### *Continuation of Suspension of Liquidation*

In accordance with section 735(c)(1)(B) of the Act, we are directing Customs to continue to suspend liquidation of all entries of subject merchandise from the PRC, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the *Preliminary Determination*. Customs shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. This suspension of liquidation instructions will remain in effect until further notice.

#### *Final Determination*

We determine that the following weighted-average dumping margins exist for the period October 1, 2002 through March 31, 2003:

#### TETRAHYDROFURFURYL ALCOHOL FROM THE PRC

Producer/manufacturer/exporter	Weighted-average margin (percent)
Qingdao (F.T.Z.) Wenkem Trading Company Limited .....	136.86
PRC—Wide Rate .....	136.86

#### *International Trade Commission Notification*

In accordance with section 735(d) of the Act, we have notified the International Trade Commission ("ITC") of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of subject merchandise entered for consumption on or after the effective date of the suspension of liquidation.

#### *Notification Regarding Administrative Protective Order ("APO")*

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance

with section 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: June 10, 2004.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

### Appendix: Issues in the Final Decision Memorandum

Comment 1: The Use of Adverse Facts Available

Comment 2: Starting Point for Calculation of Export Price

Comment 3: Freight Deduction to Calculation of Export Price

Comment 4: Surrogate Values for the Ocean Freight Deduction

Comment 5: Multi-Stage Factors of Production

Comment 6: THFA Production Starting Point

Comment 7: Furfural Value

Comment 8: Values for Dregs and Residue

Comment 9: Value for Hydrogen

Comment 10: Packing Value

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 061404E]

#### Proposed Information Collection; Comment Request; Tag Recapture Card

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA).  
**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before August 17, 2004.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Eric Orbesen, 1-800-437-3936.

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

The primary objectives of a tagging program are to obtain scientific information on fish growth and movements necessary to assist in stock assessment and management. This is accomplished by the random recapture of tagged fish by fishermen and the subsequent voluntary submission of the appropriate data.

##### II. Method of Collection

The recapture cards will be sent out to the constituents who will fill out the cards with the pertinent information when and if they recapture a tagged fish and mail the cards as instructed on the card.

##### III. Data

*OMB Number:* 0648-0259.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 240.

*Estimated Time Per Response:* .033 hours (2 minutes).

*Estimated Total Annual Burden Hours:* 8 hours.

*Estimated Total Annual Cost to Public:* \$0.

##### IV. Request for Comments

Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 10, 2004.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 061504B]

#### Proposed Information Collection; Comment Request; Fishermen's Contingency Fund

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA).  
**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before August 17, 2004.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Charles L. Cooper, Financial Services Division, F/MB5, National Marine Fisheries Service, 1315 East West Highway, Silver Spring, MD 20910, phone 301-713-2396.

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

U.S. commercial fishermen may file claims for compensation for losses of or damage to fishing gear or vessels, plus 50 percent of resulting economic losses, attributable to oil and gas activities on the U.S. outer continental shelf. To obtain compensation applicants must comply with requirements set forth in 50 CFR part 296. The requirements include a report within 15 days of the date the vessel first returns to port after the incident to gain a presumption of eligible causation and an application form.