

item subject to the Regulations and listed on the Commerce Control List that has been exported from the United States;

D. Obtain from a Denied Person in the United States any item subject to the Regulations and listed on the Commerce Control List with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations and listed on the Commerce Control List that has been or will be exported from the United States and that is owned, possessed or controlled by a Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by a Denied Person if such service involves the use of any item subject to the Regulations and listed on the Commerce Control List that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Chang by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of the Order.

Fourth, that the proposed charging letter, the Settlement Agreement, and this Order shall be made available to the public.

Fifth, that this Order shall be served on the Denied Person and on BIS, and shall be published in the **Federal Register**.

This Order, which constitutes the final agency action in this matter, is effective immediately.

Entered this 28th day of January 2009.

**Kevin Delli-Colli,**

*Acting Assistant Secretary for Export Enforcement.*

[FR Doc. E9-2319 Filed 2-4-09; 8:45 am]

BILLING CODE 3510-DT-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-549-817]

#### **Certain Hot-Rolled Carbon Steel Flat Products from Thailand: Correction to Preliminary Results of Changed Circumstances Review and Intent To Reinstate Sahaviriya Steel Industries Public Company Limited in the Antidumping Duty Order**

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

**EFFECTIVE DATE:** December 30, 2008.

**FOR FURTHER INFORMATION CONTACT:** John Drury or Angelica Mendoza, AD/CVD Operations, Office 7, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0195 or (202) 482-3019, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Correction**

On December 30, 2008, the Department of Commerce ("the Department") published a notice of preliminary results of the changed circumstances review of the antidumping duty order on certain hot-rolled carbon steel flat products from Thailand. *See Certain Hot-Rolled Carbon Steel Flat Products from Thailand: Preliminary Results of Changed Circumstances Review and Intent To Reinstate Sahaviriya Steel Industries Public Company Limited in the Antidumping Duty Order*, 73 FR 79809 (December 30, 2008) ("Preliminary Results"). Subsequent to the publication of the *Preliminary Results* in the **Federal Register**, we identified an inadvertent error.

The *Preliminary Results* notice is internally inconsistent. The *Preliminary Results* correctly state that the Department preliminarily determined a weighted-average dumping margin of 9.05 percent covering Sahaviriya Steel Industries Public Company Limited ("SSI") during the period July 1, 2006, through June 30, 2007, but then incorrectly state that a cash-deposit requirement of 6.42 percent will be in effect for all shipments of the subject merchandise manufactured and exported by SSI entered, or withdrawn from warehouse, for consumption on or after the publication date of the *Preliminary Results*. *See Preliminary Results*, 73 FR at 79814. To resolve this discrepancy and prevent confusion, the *Preliminary Results* notice is hereby

corrected to read that a cash-deposit requirement of 9.05 percent will be in effect for all shipments of the subject merchandise manufactured and exported by SSI entered, or withdrawn from warehouse, for consumption on or after the publication date of the *Preliminary Results*. Accordingly, the Department will instruct U.S. Customs and Border Protection to suspend liquidation of all entries of subject merchandise manufactured and exported by SSI entered, or withdrawn from warehouse, for consumption on or after the date of publication of the *Preliminary Results* at a rate of 9.05 percent.

This notice is published in accordance with section 777(i) of the Tariff Act of 1930, as amended.

Dated: January 30, 2009.

**John M. Andersen,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. E9-2477 Filed 2-4-09; 8:45 am]

BILLING CODE 3510-DS-S

## 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 is conducting an administrative review of the antidumping duty order on certain polyester staple fiber from Taiwan. The period of review (POR) is May 1, 2007 through April 30, 2008. This review covers imports of certain polyester staple fiber from one producer/exporter. 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. Interested parties are invited to comment on these preliminary results. Parties who submit comments in this review are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. We will issue the final results not later than 120 days after the date of publication of this notice.

**DATES:** *Effective Date:* February 5, 2009.

**FOR FURTHER INFORMATION CONTACT:**

Thomas Schauer or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-0410 and (202) 482-4477, respectively.

**Background**

On July 1, 2008, the Department published a notice initiating an administrative review of the antidumping duty order on certain polyester staple fiber (PSF) from Taiwan covering the respondents Far Eastern Textiles Ltd. (FET) and Nan Ya Plastics Corporation (Nan Ya). See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 73 FR 37409 (July 1, 2008). We have rescinded the review with respect to Nan Ya. See *Polyester Staple Fiber from Taiwan: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 51274 (September 2, 2008).

**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 polyester staple fibers 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 this 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 this 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.

**Fair-Value Comparisons**

To determine whether FET's sales of PSF to the United States were made at less than normal value (NV), we compared export price (EP) to NV, as described in the "Export Price" and "Normal Value" sections of this notice.

Pursuant to section 777A(d)(2) of the Tariff Act of 1930, as amended (the Act), we compared the EP of individual U.S. transactions to the monthly weighted-average NV of the foreign like product where there were sales made in the ordinary course of trade, as discussed in the "Cost of Production" section below.

**Product Comparisons**

We compared U.S. sales to monthly weighted-average prices of contemporaneous sales made in the home market. We found contemporaneous sales of identical merchandise in the home market for all U.S. sales in accordance with section 771(16) of the Act.

**Date of Sale**

We normally use the invoice date as the date of sale except in situations in which we find that a different date better reflects the date on which the producer or exporter establishes the material terms of sale. See 19 CFR 351.401(i).

In its questionnaire responses, FET reported date of shipment as the date of sale for its home-market and U.S. sales. FET stated that it permits home-market and U.S. customers to make order changes up to the date of shipment. According to FET's descriptions, the sales processes in the home market and the United States are identical. See FET's August 6, 2008, response at pages A-14 through A-17. Thus, record evidence demonstrates that the material terms of sale are not set before the date of invoice, which would normally result in use of the date of invoice as the date of sale. See 19 CFR 351.401(i).

Because the merchandise is always shipped on or before the date of invoice, we have used the date of shipment as the date of sale. See, e.g., *Certain Polyester Staple Fiber From Taiwan: Preliminary Results of Antidumping Duty Administrative Review*, 72 FR 31283 (June 6, 2007) (unchanged in final, 72 FR 69193, December 7, 2007), and *Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products From Korea: Final Results of Antidumping Duty Administrative Reviews*, 63 FR 13170, 13172-73 (March 18, 1998).

**Export Price**

For sales to the United States, we calculated EP in accordance with section 772(a) of the Act because the merchandise was sold prior to importation by the exporter or producer outside the United States to the first unaffiliated purchaser in the United States and because constructed export-price methodology was not otherwise warranted. We calculated EP based on the cost, insurance, and freight (CIF) 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, brokerage and handling, harbor service fees, trade promotion fees, containerization expenses, international freight, and marine insurance. No other adjustments were claimed or allowed.

**Normal Value**

*Selection of 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 NV, 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.

*Cost of Production*

We disregarded below-cost sales by FET in the last administrative review of the order completed prior to the initiation of this review. See *Certain Polyester Staple Fiber From Taiwan: Final Results of Antidumping Duty Administrative Review*, 72 FR 69193, 69194 (December 7, 2007). Therefore, pursuant to section 773(b)(2)(A)(ii) of the Act, there were reasonable grounds to believe or suspect that the respondent made sales of the foreign like product in its comparison market at prices below the cost of production (COP) within the meaning of section 773(b) of the Act.\*

\* We also disregarded below-cost sales by FET in the most recently completed administrative review of the order. See *Certain Polyester Staple Fiber From Taiwan: Final Results of Antidumping Duty Administrative Review*, 73 FR 62477, 62478 (October 21, 2008).

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

We relied on COP information FET submitted in its response to our cost questionnaire except we adjusted FET's reported cost of manufacturing to account for purchases of purified terephthalic acid and monoethylene glycol from affiliated parties at non-arm's-length prices in accordance with the major-input rule pursuant to section 773(f)(3) of the Act.

On a product-specific basis, we compared the adjusted weighted-average COP figures for the POR to the home-market sales of the foreign like product, as required under section 773(b) of the Act, to determine whether these sales were made at prices below the COP. The prices were exclusive of any applicable movement charges, packing expenses, warranties, and indirect selling expenses. In determining whether to disregard home-market sales made at prices below their COP, we examined, in accordance with sections 773(b)(2)(B), (C), and (D) of the Act, whether such sales were made within an extended period of time in substantial quantities and at prices which permitted the recovery of all costs within a reasonable period of time.

We found that, for certain products, more than 20 percent of the respondent's home-market sales were at prices below the COP and, in addition, the below-cost sales were made within an extended period of time in substantial quantities. In addition, these sales were made at prices that did not permit the recovery of costs within a reasonable period of time. Therefore, we disregarded these sales and used the remaining sales of the same product as the basis for determining NV in accordance with section 773(b)(1) of the Act.

#### *Calculation of Normal Value*

We calculated NV based on the price FET 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 (COS) in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. We made COS 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).

In addition, FET reported two transactions in its home-market sales database which it acknowledged it had reason to know would be exported to the People's Republic of China. See FET's November 13, 2008, response to our supplemental questionnaire at SE-8. Because FET knew or had reason to know at the time of sale that these transactions were destined for export, we removed them from our calculations of NV in accordance with section 773(a)(1)(B)(i) of the Act.

#### **Level of Trade**

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade as the EP. Sales are made at different levels of trade 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. See 19 CFR 351.412(c)(2); see also *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997).

In order to determine whether a respondent made comparison-market sales at stages in the marketing process which differ from those of the U.S. sales, we review 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 incurred for each type of sale. The marketing process in the U.S. and comparison markets begins with the producer and extends to the sale to the final user or customer. The chain of distribution between the two may have many or few links, and the respondent's sales occur somewhere along this chain. In performing this evaluation, we consider the narrative responses of the respondent to determine where in the chain of distribution the sale appears to occur. Selling functions associated with

a particular chain of distribution help us to evaluate the level(s) of trade in a particular market. Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for EP and comparison-market sales (*i.e.*, NV based on either home-market or third-country prices), we consider the starting prices before any adjustments. See *Micron Technology, Inc. v. United States*, et al., 243 F.3d 1301, 1314–15 (Fed. Cir. 2001) (affirming this methodology).

When the Department is unable to match U.S. sales to sales of the foreign like product in the comparison market at the same level of trade as the EP, the Department may compare the U.S. sale to sales at a different level of trade in the comparison market. In comparing EP sales at a different level of trade in the comparison market, where available data show that the difference in level of trade affects price comparability, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act.

FET reported that it sold to a single customer in the United States. Because there was only one U.S. customer, the necessary condition for finding that different levels of trade exist was not met. Accordingly, we determined that all of FET's U.S. sales constituted a single level of trade.

FET 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 FET performed for selling to home-market customers did not vary by individual customers, we determined that all of FET's home-market sales constituted a single level of trade.

Finally, because there is only one home-market level of trade, it is not possible to calculate a level-of-trade adjustment. In addition, because all U.S. sales were EP sales, no offset contemplated for constructed EP sales is appropriate.

#### **Preliminary Results of the Review**

As a result of this review, we preliminarily determine that a dumping margin of 1.97 percent exists for FET for the period May 1, 2007, through April 30, 2008.

#### **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. Although FET indicated that it was not the importer of record for any of its sales to the United States during the POR, it reported the name of the importer of record for all of its U.S. sales. Because FET reported the entered value for all of its U.S. sales, in accordance with 19 CFR 351.212(b)(1), we have calculated an importer-specific assessment rate for the merchandise in question by aggregating the dumping margins we calculated for all U.S. sales to the importer and dividing this amount by the total entered value of those sales. We intend to issue instructions to CBP 15 days after publication of the final results of this review.

The Department clarified its "automatic assessment" regulation on May 6, 2003. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment Clarification*). This clarification will apply to entries of subject merchandise during the POR produced by FET for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to 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 *Assessment Clarification*.

#### 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 FET 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; and (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: January 28, 2009.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E9-2398 Filed 2-4-09; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-855]

#### Certain Non-Frozen Apple Juice Concentrate From the People's Republic of China: Extension of Time Limits for the Preliminary Results of the Administrative Review

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

**DATES:** *Effective Date:* February 5, 2009.

#### FOR FURTHER INFORMATION CONTACT:

Alexis Polovina, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3927.

#### Background

On July 30, 2008, the Department published a notice of initiation of an administrative review of certain non-frozen apple juice concentrate from the People's Republic of China covering the period June 1, 2007 through May 31, 2008. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews, Request for Revocation in Part, and Deferral of Administrative Review*, 73 FR 44220 (July 30, 2008). The preliminary results are currently due no later than March 2, 2009.

#### Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within these time periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days after the last day of the anniversary month.

#### Extension of Time Limit of Preliminary Results

We determine that it is not practicable to complete the preliminary results of this review within the original time limit because the Department requires additional time to analyze the supplemental questionnaire responses, possibly issue additional supplemental questionnaires, and evaluate the most appropriate surrogate values on the