

final results of this review; 2) for previously reviewed or investigated companies not covered in this review, 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 less-than-fair-value (LTFV) investigation but the manufacturer is, the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and 4) if neither the exporter nor the manufacturer is a firm covered in this or any previous segment of the proceeding, the cash-deposit rate will continue to be the all-others rate established in the LTFV investigation, which is 21.01 percent. See *Antidumping Duty Order*. These cash-deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice 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.

The preliminary results of this administrative review and this notice are issued and

published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 29, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

(A-520-803)

#### **Polyethylene Terephthalate Film, Sheet, and Strip from the United Arab Emirates: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination**

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

**SUMMARY:** The U.S. Department of Commerce (the Department) preliminarily determines that

Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from the United Arab Emirates (UAE) 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 Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are listed in the "Preliminary Determination" section of this notice. Interested parties are invited to comment on this preliminary determination. Pursuant to a request from an interested party, we are postponing our final determination to not later than 135 days after publication of the preliminary determination.

**EFFECTIVE DATE:** May 5, 2008.

#### **FOR FURTHER INFORMATION CONTACT:**

Douglas Kirby or Myrna Lobo, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3782 or (202) 482-2371, respectively.

#### **SUPPLEMENTARY INFORMATION:**

#### **Background**

This investigation was initiated on October 18, 2007. See *Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates: Initiation of Antidumping Duty Investigations (Notice of Initiation)*, 72 FR 60801 (October 26, 2007). On November 13, 2007, the United States International Trade Commission (ITC) preliminarily determined that, pursuant to section 733(a) of the Act, there is a reasonable indication that an industry in the United States is materially injured by reason of imports of PET Film from Brazil, China, Thailand, and the United Arab Emirates. See *Investigation Nos. 731-TA-1131-1134 (Preliminary): Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, China, Thailand, and the United Arab Emirates*, 72 FR 67756 (November 13, 2007) (*ITC Preliminary Determination*). The domestic interested parties are DuPont Teijin Films, Mitsubishi Polyester Film of America, Inc., SKC, Inc. and Toray Plastics (America), Inc. (collectively, the petitioners). The respondent for this investigation is Flex Middle East FZE (Flex FZE).

On November 27, 2007, the Department issued its sections A through E questionnaires to Flex FZE. On December 19, 2007, Flex FZE submitted its section A response. On January 18, 2008, Flex FZE submitted its sections B and C responses. On January

23, 2008, the petitioners made a timely request pursuant to section 733(c)(1) of the Act and 19 CFR 351.205(e) for a postponement of the preliminary determinations with respect to Brazil, the People's Republic of China, Thailand, and the United Arab Emirates. See *Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 73 FR 7710 (February 11, 2008).

On February 6, 2008, the petitioners submitted a timely allegation that home market sales were being made at prices below the cost of production and requested that the Department initiate a sales-below-cost investigation of Flex FZE pursuant to 19 CFR

351.301(d)(2)(B). On February 8, 2008, the Department issued its first supplemental questionnaire to Flex FZE. On February 27, 2008, Flex FZE submitted its response to the first supplemental questionnaire. On February 29, 2008, the Department issued a second supplemental questionnaire to Flex FZE. On February 29, 2008, the Department initiated a sales-below-cost investigation of Flex FZE and requested that Flex FZE respond to the section D questionnaire. See Memorandum to Barbara E. Tillman, Director, AD/CVD Operations, Office 6, from the Team, *Petitioners' Allegation of Sales Below the Cost of Production for Flex Middle East FZE (Flex FZE) (Cost Allegation Memorandum)* (February 29, 2008), on file in the Central Record Unit, room 1117 of the main Department of Commerce building (CRU). On March 12, 2008, Flex FZE submitted its response to the second supplemental questionnaire. On March 14, 2008, Flex FZE submitted its response to the section D questionnaire.

On March 21, 2008, the petitioners submitted an allegation pursuant to 19 CFR 351.301(d)(5) that certain U.S. sales by Flex FZE were targeted for dumping. On March 27, 2008, the Department issued a supplemental questionnaire for sections A through D to Flex FZE. On March 31, 2008, Flex FZE submitted comments regarding the petitioners' targeted dumping allegation. On April 1, 2008, the Department issued a letter to Flex FZE to clarify the March 27, 2008, supplemental questionnaire. On April 8, 2008, Flex FZE submitted its response to the sections A through D supplemental questionnaire. On April 11, 2008, the Department issued questions to the petitioners regarding its targeted dumping allegation. On April

21, 2008, the petitioners submitted a response to the Department's questions regarding the targeted dumping allegation.

#### Respondent Identification

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. Section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of producers/exporters, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. Where it is not practicable to examine all known producers/exporters of subject merchandise, this provision permits the Department to investigate either (A) a sample of exporters, producers, or types of products that is statistically valid based on the information available to the Department at the time of selection or (B) producers/exporters accounting for the largest volume of the merchandise under investigation that can reasonably be examined. In the petition, the petitioners identified one potential producer and exporter of PET Film in the UAE: Flex FZE.

Based on our analysis of import data obtained from U.S. Customs and Border Protection (CBP), we selected one producer/exporter, Flex FZE, as the mandatory respondent in this investigation because this company is the only producer of UAE subject merchandise exported to the United States during the POI. Therefore, the Department determined that Flex FZE is the sole producer and exporter of PET Film in the UAE. For a complete analysis of our respondent selection, see *Memorandum to Barbara E. Tillman, Director, Office 6, "Antidumping Duty Investigation on PET Film from the UAE - Respondent Selection,"* November 27, 2007 (*Respondent Selection Memorandum*). Therefore, pursuant to section 777A(c)(2)(B) of the Act, the Department has calculated an individual dumping margin for the selected producer/exporter.

#### Postponement of Final Determination

Section 735(a)(2)(A) 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. Section 351.210(e)(2) of the Department's regulations requires that

exporters requesting postponement of the final determination must also request an extension of the provisional measures referred to in section 733(d) of the Act from a four-month period to not more than six months. We received a request to postpone the final determination and extend the provisional measures from Flex FZE on April 18, 2008. Because this preliminary determination is affirmative, the request for postponement was made by an exporter who accounts for a significant proportion of exports of the subject merchandise, and there is no compelling reason to deny the respondent's request, we have extended the deadline for issuance of the final determination until the 135th day after the date of publication of this preliminary determination in the **Federal Register** and we will extend the provisional measures to not more than six months.

#### Period of Investigation

The period of investigation (POI) is July 1, 2006 through June 30, 2007.

#### Scope of the Investigation

The products covered by this investigation are all gauges of raw, pre-treated, or primed PET Film, whether extruded or co-extruded. Excluded are metallized films and other finished films that have had at least one of its surfaces modified by the application of a performance-enhancing resinous or inorganic layer more than 0.00001 inches thick. Also excluded is Roller transport cleaning film which has at least one of its surfaces modified by application of 0.5 micrometers of SBR latex. Tracing and drafting film is also excluded. PET Film is classifiable under subheading 3920.62.00.90 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings are provided for convenience and purposes of Customs and Border Protection (CBP), our written description of the scope of this investigation is dispositive.

#### Party Comments on Scope and Model Matching

On October 30, 2007, the Department asked all parties in this investigation and in the concurrent antidumping duty investigations of PET Film from Brazil, the People's Republic of China (PRC), and Thailand, for comments on the appropriate product characteristics for defining individual products. In addition, the Department requested all parties in this investigation and in the concurrent antidumping duty investigations of PET Film from Brazil, the PRC, and Thailand, to submit

comments on the appropriate model matching methodology. See Letter from Robert James, Program Manager, AD/CVD Enforcement 7, dated October 7, 2007. We received comments from petitioners on November 6, 2007, requesting that the Department include the grade of PET Film in the model match criteria. Additionally, petitioners requested that the Department include a field identifying whether or not the PET Film has been coextruded. In its November 29, 2007 questionnaire, the Department requested that respondent report the grade of the PET Film, but did not request a field identifying whether the PET Film is coextruded. For purposes of this preliminary determination, the Department has determined that it is unnecessary to change the proposed product characteristics and model matching methodology with regard to coextrusion. For purposes of distinguishing subject merchandise, the Department will take into account the grade of the PET Film, as advocated by petitioners in their submission.

On November 15, 2007, Avery Dennison requested that the Department find that "release liner," a PET film product treated on one or both sides with a specially-cured silicon coating, is outside the scope of these investigations. Petitioners filed a submission objecting to Avery Dennison's request on November 29, 2007; petitioners re-submitted their objections with amended bracketing on December 14, 2007, and the document was accepted for the record on that date. Petitioners argue that release liner is "PET film that clearly falls within the scope of these investigations." See Petitioners' December 14, 2007 submission at 1 and 2. Avery Dennison responded to the petitioners comments on February 1, 2008.

In accordance with section 731(i) of the Act, we have determined that the descriptions of the merchandise contained in the petition and in our *Notice of Initiation* support the conclusion that release film is of the same class or kind of merchandise covered by the scope of the proposed antidumping duty order. See also generally 19 CFR 351.225(k)(1). The product descriptions in the petition and in the Department's *Notice of Initiation* specifically exclude finished films with a "performance enhancing resinous or inorganic layer of more than 0.00001 inches thick." There is nothing in the proposed scope language of either the petition or our *Notice of Initiation* that excludes products bearing a performance enhancing resinous or inorganic layer of less than 0.00001

inches from the scope of the order. Moreover, there is no language in either the proposed scope language of the petition or our *Notice of Initiation* that limits the scope of the investigation to "PET base film," (*i.e.*, PET film prior to the application of in-line coatings), as Avery Dennison suggests. In addition, release liner shares the chemical composition of PET film described in the proposed scope of the petition and *Notice of Initiation*. One of the purposes of a less than fair value investigation is to decide the merchandise specifically covered by the scope of the ultimate antidumping duty order. Based upon the foregoing, we have preliminarily determined that release film is of the same class or kind of merchandise as that described in the petition and in the Department's *Notice of Initiation*. Thus, we have determined that release film is covered by the scope of the antidumping investigation of PET film from Thailand. For a full discussion of this issue, see the memorandum titled "Antidumping Duty Investigations on Polyethylene Terephthalate Film, Sheet, and Strip (PET film) from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates," from Micheal J. Heaney, Senior Case Analyst, to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, dated April 25, 2008, issued concurrently with this notice.

We have relied on four criteria to match U.S. sales of subject merchandise to comparison market sales of the foreign like product: grade, specification, thickness, and surface treatment. Where there were no sales of identical merchandise in the comparison market made in the ordinary course of trade 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.

### Targeted Dumping

On March 21, 2008, the petitioners submitted a timely allegation that Flex FZE engaged in targeted dumping during the POI in accordance with 19 CFR 351.301(d)(5). On March 31, 2008, Flex FZE submitted comments in response to the petitioners' targeted dumping allegation. On April 11, 2008, the Department requested additional information from the petitioners regarding their targeted dumping allegation. The additional information requested was filed on April 21, 2008. Therefore, there was not sufficient time to analyze the information and fully consider the petitioners' allegation for this preliminary determination. The

Department will issue a decision regarding targeted dumping for this investigation following the issuance of the preliminary determination, and will allow parties to comment on it prior to the final determination.

### Date of Sale

It is the Department's practice to use invoice date as the date of sale. The regulations further provide that the Department may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale (*i.e.*, price and quantity). See 19 CFR 351.401(i); see also *Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090–92 (CIT 2001). Flex FZE reported invoice date as its date of sale for both its home market and U.S. market sales during the POI.

Based on Flex FZE's questionnaire responses, we preliminarily determine that invoice date is the appropriate date of sale in both markets. Flex FZE stated in its February 26, 2008 supplemental questionnaire response that the company reported invoice date as the date of sale because that is the date when the price and quantity are finally set. In addition, Flex FZE stated that changes between the order date and the invoice date can occur, but records of these types of changes are not maintained electronically. In its February 26, 2008 supplemental response, Flex FZE provided two examples for home market sales where changes occurred between order date and invoice date. We issued a supplemental questionnaire on March 31, 2008 requesting Flex FZE to provide information indicating changes between order date and invoice date for U.S. sales during the POI. Flex FZE responded that no such changes had occurred in the U.S. market during the POI.

On April 25, 2008, the Department issued an additional supplemental questionnaire for further information regarding date of sale in the U.S. market. We intend to continue evaluating whether invoice date appropriately represents the date on which the material terms of sale are set in the U.S. market.

### Fair Value Comparisons

To determine whether sales of PET Film from the UAE were made in the United States at less than normal value (NV), we compared the constructed export price (CEP) to the NV, as described in the "Constructed Export Price" and "Normal Value" sections

below. In accordance with section 777A(d)(1) of the Act, we calculated the weighted-average prices for NV and compared these to the weighted-average of CEP.

### Constructed Export Price

For the price to the United States, pursuant to section 772(b) of the Act, we used CEP because all sales to the United States were made by Flex America Inc., Flex FZE's U.S. subsidiary, and Flex America Inc. made the sale to the first unaffiliated purchaser in the United States of the subject merchandise. We based CEP on the packed prices charged to the first unaffiliated customer in the United States and the applicable terms of sale. See Flex FZE's December 19, 2007 section A questionnaire response.

The Department calculated Flex FZE's starting price as its gross unit price to its unaffiliated U.S. customers, making adjustments where necessary for billing adjustments and early payment discounts, pursuant to section 772(c)(1) of the Act. Where applicable, the Department made deductions for movement expenses (foreign inland freight, international freight, U.S. movement, U.S. customs duty and brokerage, and post-sale warehousing) in accordance with section 772(c)(2) of the Act and 19 CFR 351.401(e). In accordance with sections 772(d)(1) and (2) of the Act, we also deducted, where applicable, U.S. direct selling expenses, including warranty, credit expenses, U.S. commissions, and U.S. indirect selling expenses and U.S. inventory carrying costs incurred in the United States and in the UAE associated with economic activities in the United States. We also deducted CEP profit in accordance with section 772(d)(3) of the Act.

### Normal Value

#### *Home Market Viability and Comparison Market Selection*

To determine whether there was a sufficient volume of sales in the home market (*i.e.*, the UAE) to serve as a viable basis for calculating NV, we compared the respondent's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. Pursuant to section 773(a)(1)(B)(II) of the Act, because the aggregate quantity (or, if quantity is not appropriate, value) of the foreign like product sold by Flex FZE in its home market is five percent or more of the aggregate quantity of the subject merchandise sold in the United States or for export to the United States, we determined that Flex FZE's sales of PET Film in the UAE were sufficient to find

the home market viable for comparison purposes. Accordingly, we calculated NV for Flex FZE based on sales prices to UAE customers.

#### *Cost of Production Analysis*

Based on our analysis of the petitioners' allegation, we found that there were reasonable grounds to believe or suspect that Flex FZE's sales of PET Film in the home market were made at prices below its COP. Accordingly, pursuant to section 773(b) of the Tariff Act, we initiated a sales-below-cost investigation to determine whether Flex FZE had sales that were made at prices below its respective COPs. *See Cost Allegation Memorandum.*

#### 1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of Flex FZE's cost of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses ("G&A"), and interest expenses. We relied on the COP information provided by Flex FZE in its questionnaire response except in the following instances.

Pursuant to section 773(f)(3) of the Act, we adjusted Flex FZE's reported cost of manufacturing to reflect the higher of the transfer price, the market price, and the affiliate's cost of production for PET chips purchased by Flex FZE from affiliated suppliers. In addition, pursuant to section 773(f)(2) of the Act, we adjusted Flex FZE's reported cost of manufacturing to reflect the higher of the transfer price and the market price for chemicals purchased by Flex FZE from affiliated suppliers.

We adjusted UFlex Limited's (UFlex Limited is Flex FZE's parent company) cost of goods sold used as the denominator in the calculation of the reported financial expense ratio to include depreciation expense and to exclude inter-unit purchases of raw materials which are eliminated on UFlex Limited's consolidated financial statements. For further details regarding these adjustments, *see Memorandum from Ernest Gziryman to Neal M. Halper, Director, Office of Accounting, "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Flex Middle East FZE"* (April 25, 2008).

#### 2. Test of Comparison Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home market sales prices of the foreign like product, as required under section 773(b) of the Act,

in order to determine whether the sale prices were below the COP. The prices were exclusive of any applicable movement charges, direct and indirect selling expenses, and packing expenses.

#### 3. Results of the COP Test

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether, within an extended period of time, such sales were made in substantial quantities, and whether such sales were not made at prices which permitted the recovery of all costs within a reasonable period of time. Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of the respondent's home market sales of a given model were at prices below the COP, we did not disregard any below-cost sales of that model because we determined that the below-cost sales were not made within an extended period of time in "substantial quantities." Where 20 percent or more of the respondent's home market sales of a given model were at prices less than COP, we disregarded the below-cost sales because: (1) they were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Act, and (2) based on our comparison of prices to the weighted-average COPs for the POR, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. During the POI, none of Flex UAE's home market sales were disregarded. For further information on the results of Flex UAE's cost test, *see Memorandum to the File, from Douglas Kirby through Dana Mermelstein, Analysis of Flex Middle East FZE*, dated April 25, 2008 (*Flex FZE Preliminary Analysis Memorandum*), on file in CRU.

#### *Calculation of Normal Value Based on Comparison Market Prices*

We calculated NV based on prices to unaffiliated customers in the UAE and matched U.S. sales to NV. We made deductions, where appropriate, for billing adjustments, discounts, rebates, movement expenses, and packing pursuant to section 773(a)(6)(B) of the Act. In addition, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411.

#### *Level of Trade/Constructed Export Price Offset*

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the CEP transaction. The LOT in the comparison market is the LOT of the starting-price sales in the comparison market or, when NV is based on CV, the LOT of the sales from which we derive SG&A expenses and profit. For CEP sales, the LOT is that of the constructed sale from the exporter to the affiliated importer. *See 19 CFR 351.412(c)(ii). See also Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314 (Fed. Cir. 2001).

To determine whether comparison market sales are at a different LOT from U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, the Department makes an LOT adjustment in accordance with section 773(a)(7)(A) of the Act. For CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the customer. We analyze whether different selling activities are performed, and whether any price differences (other than those for which other allowances are made under the Act) are shown to be wholly or partly due to a difference in LOT between the CEP and NV. Under section 773(a)(7)(A) of the Act, we make an upward or downward adjustment to NV for LOT if the difference in LOT involves the performance of different selling activities and is demonstrated to affect price comparability, based on a pattern of consistent price differences between sales at different LOTs in the country in which NV is determined. Finally, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP, but the data available do not provide an appropriate basis to determine a LOT adjustment, we reduce NV by the amount of indirect selling expenses incurred in the foreign comparison market on sales of the foreign like product, but by no more than the amount of the indirect selling expenses incurred for CEP sales. *See section 773(a)(7)(B) of the Act (the CEP offset provision).*

In analyzing differences in selling functions, we determine whether the LOTs identified by the respondent are meaningful. *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27371 (May 19, 1997). If the claimed LOTs are the same, we expect that the functions and activities of the seller should be similar. Conversely, if a party claims that LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar. *See Porcelain-on-Steel Cookware from Mexico: Final Results of Antidumping Duty Administrative Review*, 65 FR 30068 (May 10, 2000) and accompanying *Issues and Decision Memorandum* at Comment 6.

For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and CEP profit under section 772(d) of the Act. *See Micron Technology Inc. v. United States*, 243 F. 3d 1301, 1314–1315 (Fed. Cir. 2001). We reviewed the selling functions and services performed by Flex FZE on CEP sales for three channels of distribution relating to the CEP LOT, as described by Flex FZE in its questionnaire responses, after these deductions. We have determined that the selling functions performed by Flex FZE on its U.S. sales (all of which are CEP sales) are similar because for all U.S. sales, Flex FZE provides almost no selling functions to its U.S. affiliate, Flex America, in support of the three channels of distribution. *See Flex UAE Preliminary Analysis Memorandum* for additional information regarding Flex FZE's selling functions for CEP sales. Accordingly, because the selling functions provided by Flex FZE for CEP sales are minimal, and the selling functions provided by Flex America to unaffiliated customers in the United States in all three channels of distribution are substantially similar and are provided at the same degree of service, we preliminarily determine that there is one CEP LOT in the U.S. market.

According to section 773(a)(7)(B) of the Act, a CEP offset is appropriate when the LOT in the home market is at a more advanced stage than the LOT of the CEP sales and there are no data available to determine the existence of a pattern of price difference. Flex UAE reported that it provided minimal selling functions and services for the one (CEP) LOT in the United States and that, therefore, the comparison market LOT is more advanced than the CEP LOT. Based on our analysis of the channels of distribution and selling functions performed by Flex FZE for sales in the comparison market and CEP

sales in the U.S. market, we preliminarily find that the comparison market LOT is at a more advanced stage of distribution when compared to CEP sales because Flex FZE provides many more selling functions in the comparison market at a higher level of service as compared to the selling function it performs for its CEP sales. For a discussion of the proprietary information regarding Flex FZE's comparison market selling functions, *see Flex FZE Preliminary Analysis Memorandum*. Thus, we find that Flex FZE's comparison market sales are at a more advanced LOT than its CEP sales. In addition, we preliminarily determine there is only one LOT in the comparison market. Therefore, there are no data available to determine the existence of a pattern of price differences; nor do we have any other information that provides an appropriate basis for determining a LOT adjustment. Therefore, consistent with section 773(a)(7)(B) of the Act, we applied a CEP offset to NV for CEP comparisons.

To calculate the CEP offset, we deducted from NV the comparison market indirect selling expenses for comparison market sales that were compared to U.S. CEP sales. We limited the comparison market indirect selling expense deduction by the amount of the indirect selling expenses deducted in calculating CEP as required under section 772(d)(1)(D) of the Act.

#### Currency Conversions

The Department's preferred source for daily exchange rates is the Federal Reserve Bank. *See Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from France*, 68 FR 47049, 47055 (August 7, 2003), remaining unchanged in *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from France*, 68 FR 69379 (December 12, 2003). However, the Federal Reserve Bank does not track or publish exchange rates for the UAE dirham. Therefore, we made currency conversions from UAE dirhams to U.S. dollars based on the daily exchange rates from Factiva, a Dow Jones & Reuters Retrieval Service. Factiva publishes exchange rates for Monday through Friday only. We used the rate of exchange on the most recent Friday for conversion dates involving Saturday and Sunday, where necessary. *See e.g., Certain Steel Nails From the United Arab Emirates: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 3945 (January 23, 2008).

#### Verification

As provided in section 782(i) of the Act, we intend to verify the information upon which we will rely in making our final determination.

#### All-Others Rate

Pursuant to section 735(c)(5)(A) of the Act, the all others rate is equal to the weighted average of the dumping margins of each respondent investigated, excluding zero or *de minimis* margins and any margins determined exclusively under section 776 of the Act. Flex UAE is the only respondent in this investigation for which the Department has calculated a company-specific rate. Therefore, for purposes of determining the all-others rate and pursuant to section 735(c)(5)(A) of the Act, we are using the rate calculated for Flex UAE as the all-others rate, as referenced in the "Preliminary Determination" section below.

#### Preliminary Determination

The weighted-average dumping margins are as follows:

Producer/Exporter	Weighted-Average Margin
Flex Middle East FZE .....	2.45%
All Others .....	2.45%

#### Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of PET Film from the UAE that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average dumping margin, as indicated in the chart above, as follows: (1) the rate for the firm listed above will be the rate we have determined in this preliminary determination; (2) if the exporter is not a firm identified in this investigation, but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be the all others rate listed above. These suspension of liquidation instructions will remain in effect until further notice.

#### ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary affirmative determination. If the Department's final determination is affirmative, the ITC

will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of PET Film from the UAE materially injure, or threaten material injury to, the U.S. industry.

### Public Comment

We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 19 CFR 351.224(b). Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the final verification report in this proceeding. *See* 19 CFR 351.309(c)(1)(i). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs. *See* 19 CFR 351.309(d)(1) and (2). 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 request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette.

In accordance with section 774 of the Act, the Department will hold a public hearing, if requested, 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 this investigation, the hearing will tentatively be held two days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone, the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. *See* 19 CFR 351.310(c). At the hearing, oral presentations will be limited to issues raised in the briefs.

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

Dated: April 25, 2008.

**David M. Spooner,**  
Assistant Secretary for Import  
Administration.

[FR Doc. E8-9844 Filed 5-2-08; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

(A-570-924)

#### **Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value**

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

**EFFECTIVE DATE:** May 5, 2008.

**SUMMARY:** We preliminarily determine that polyethylene terephthalate film, sheet, and strip ("PET Film") 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 733 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Preliminary Determination" section of this notice. Interested parties are invited to comment on this preliminary determination. We will make our final determination 75 days after the date of publication of this preliminary determination, pursuant to section 735(a) of the Act.

**FOR FURTHER INFORMATION CONTACT:** Erin Begnal or Toni Dach, 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) 482-1442 or 482-1655, respectively.

#### **SUPPLEMENTAL INFORMATION:**

##### **Initiation**

On September 28, 2007, the Department of Commerce ("Department") received petitions on imports of PET Film from Brazil, the PRC, Thailand, and the United Arab Emirates ("UAE") ("petitions") filed in proper form by Dupont Teijin Films, Mitsubishi Polyester Film Inc., SKC Inc., and Toray Plastics (America) Inc., (collectively, "Petitioners"). *See Antidumping Duty Petition: Polyethylene Terephthalate Film, Sheet,*

*and Strip (PET Film) from Brazil, Republic of China, Thailand, and the United Arab Emirates* (September 28, 2007). These investigations were initiated on October 18, 2007. *See Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates: Initiation of Antidumping Duty Investigations*, 72 FR 60801 (October 26, 2007) ("Initiation Notice").

On November 13, 2007, the United States International Trade Commission ("ITC") issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from Brazil, the PRC, Thailand, and UAE of PET Film. The ITC's determination was published in the **Federal Register** on November 30, 2007. *See Polyethylene Terephthalate Film, Sheet, and Strip From Brazil, China, Thailand, and the United Arab Emirates*, 72 FR 67756 (November 30, 2007); *see also Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, China, Thailand, and the United Arab Emirates: Investigation Nos. 731-TA-1131-1134 (Preliminary)*, Publication 3962 (November 2007).

#### **Scope Comments**

In accordance with the preamble to our regulations, we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice*. *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

On November 15, 2007, Avery Dennison requested that the Department find that "release liner," a PET Film product treated on one or both sides with a specially-cured silicon coating of less than 0.00001 inches, is outside the scope of these investigations. Petitioners filed a submission objecting to Avery Dennison's request on November 29, 2007; Petitioners re-submitted their objections with amended bracketing on December 14, 2007, and the document was accepted for the record on that date. Petitioners argue that release liner is "PET Film that clearly falls within the scope of these investigations." *See* Petitioners' December 14, 2007, submission at 1 and 2. Avery Dennison responded to Petitioners' comments on February 1, 2008.

In accordance with section 731(i) of the Act, we have determined that the descriptions of the merchandise