

Departmental Paperwork Clearance Officer, (202) 482-0266, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at [dhynek@doc.gov](mailto:dhynek@doc.gov)).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202-395-7245) or e-mail ([bharrisk@omb.eop.gov](mailto:bharrisk@omb.eop.gov)).

Dated: August 2, 2011.

**Glenna Mickelson,**

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

[FR Doc. 2011-19873 Filed 8-4-11; 8:45 am]

**BILLING CODE 3510-07-P**

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

*Agency:* U.S. Census Bureau.

*Title:* 2011 Government Units Survey.

*OMB Control Number:* 0607-0930.

*Form Number(s):* GUS-1.

*Type of Request:* Reinstatement, with change, of an expired collection.

*Burden Hours:* 57,375.

*Number of Respondents:* 76,500.

*Average Hours per Response:* 45 minutes.

*Needs and Uses:* The 2011 Government Units Survey will be used to update the universe list of public sector entities for the 2012 Census of Governments. Each of the estimated 76,500 non-school governments will be sent a form. Respondents will be asked to verify or correct the name and mailing address of the government, answer the questions on the form, and return the form.

The directory survey for the 2007 Census of Governments, form G-30, was mailed to special district governments only. The form collected only basic information on the governing board, authorizing legislation, the Web address, agency activity, and employment and payroll data. The employment and payroll data were used in lieu of a response to the March 2007 Census of Governments: Employment, for special district governments. The Government Units Survey (GUS) collects more data and will be mailed to municipalities, townships, counties,

and special districts. The GUS-1 consists of nine broad content areas: background information, debt, license and permit fees, taxes, retirement/pension plan, government activity, public services, judicial or legal activities, and finance. The first eight content areas consist predominantly of yes/no questions and are designed to collect information on the general characteristics of the government. The finance section of the questionnaire requests four numerical values: payroll, expenditures, revenues, and debt.

The GUS will be used to produce the official count of local government units in the United States; to obtain descriptive information on the basic characteristics of governments; to identify and delete inactive units from the official list of public entities maintained by the Governments Division of the Census Bureau; to identify file duplicates and units that were dependent on other governments; and to update and verify the mailing addresses of governments. The basic characteristics collected with the GUS will allow us to reduce the burden on small governments by improving small area estimates and imputation methods from a smaller sample size.

*Affected Public:* State, local or Tribal governments.

*Frequency:* Every 5 years.

*Respondent's Obligation:* Voluntary.

*Legal Authority:* Title 13, Section 161, of the United States Code.

*OMB Desk Officer:* Brian Harris-Kojetin, (202) 395-7314.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482-0266, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at [dhynek@doc.gov](mailto:dhynek@doc.gov)).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202-395-7245) or e-mail ([bharrisk@omb.eop.gov](mailto:bharrisk@omb.eop.gov)).

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## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[Order No. 1775]

### Voluntary Termination of Subzone Status; Chrysler Group, LLC, Newark, DE

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

*Whereas*, on July 3, 1984, the Board issued a grant of authority to the State of Delaware (grantee of FTZ 99) authorizing the establishment of Foreign-Trade Subzone 99B at the Chrysler Group, LLC, facility in Newark, Delaware (Board Order 258, 49 FR 28587, 7-13-1984);

*Whereas*, the State of Delaware has advised that the facility has been closed and zone procedures are no longer needed at the facility and requested voluntary termination of Subzone 99B (FTZ Docket 38-2011); and,

*Whereas*, the request has been reviewed by the FTZ Staff and U.S. Customs and Border Protection officials, and approval has been recommended;

*Now therefore*, the Foreign-Trade Zones Board terminates the subzone status of Subzone 99B, effective this date.

Signed at Washington, DC this 26th day of July 2011.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.*

Attest:

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2011-19919 Filed 8-4-11; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-583-837]

### Polyethylene Terephthalate Film, Sheet, and Strip From Taiwan: Preliminary Results of Antidumping Duty Administrative Review

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

**SUMMARY:** The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on polyethylene terephthalate film, sheet, and strip (PET Film) from Taiwan. The

period of review (POR) is July 1, 2009, through June 30, 2010. This review covers respondents, Shinkong Synthetic Fibers Corporation (SSFC) and Shinkong Materials Technology Co. Ltd. (SMTC) (collectively, Shinkong), and Nan Ya Plastics Corporation, Ltd. (Nan Ya), producers and exporters of PET Film from Taiwan.

The Department preliminarily determines that Shinkong and Nan Ya made sales of PET Film below normal value (NV) during the POR. The preliminary results are listed below in the section titled "Preliminary Results of Review." Interested parties are invited to comment on these preliminary results.

**DATES:** *Effective Date:* August 5, 2011.

**FOR FURTHER INFORMATION CONTACT:** Gene Calvert or Emily Halle, 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) 428-3586, or (202) 482-0176, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On July 1, 2002, the Department published in the **Federal Register** the antidumping duty order on PET Film from Taiwan.<sup>1</sup> On July 1, 2010, the Department published a notice of opportunity to request an administrative review of this order.<sup>2</sup> In response, on July 30, 2010, the domestic interested parties DuPont Teijin Films, Mitsubishi Polyester Film of America, SKC, Inc., and Toray Plastics (America), Inc. (collectively, Petitioners) requested that the Department conduct an administrative review of Nan Ya's and Shinkong's sales of PET Film from Taiwan to the United States.

On August 31, 2010, the Department initiated an administrative review of Shinkong and Nan Ya (collectively, the respondents).<sup>3</sup> On September 27, 2010, the Department issued an antidumping duty questionnaire to the respondents. Nan Ya did not respond to the Department's questionnaire. Therefore, in accordance with section 776(a)(2)(A),

(B) and (C) of the Tariff Act of 1930, as amended (the Act), for these preliminary results, the Department has applied facts otherwise available with an adverse inference when determining Nan Ya's rate.<sup>4</sup>

Between February 2, 2011, and June 9, 2011, the Department issued supplemental questionnaires to Shinkong requesting additional information. All of Shinkong's responses were submitted on a timely basis.

On March 10, 2011, the Department extended the time period for issuing the preliminary results of this administrative review.<sup>5</sup> We have not received comments from Petitioners for these preliminary results.

**Scope of the Order**

The products covered by the order are all gauges of raw, pretreated, or primed polyethylene terephthalate film, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer more than 0.00001 inches thick. Imports of PET Film are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

**Scope Ruling**

On December 22, 2010, the Department issued a final scope determination stating that amorphous polyethylene terephthalate film that is not biaxially-oriented is not covered by the scope of the order.<sup>6</sup>

**Period of Review**

The POR for this administrative review is July 1, 2009, through June 30, 2010.

**Collapsing of SSFC and SMTC**

The Department will treat two or more affiliated producers as a single entity where: (1) Those producers have production facilities for similar or identical product that would not require substantial retooling of either facility; and (2) there is a significant potential for manipulation of price or production pursuant to 19 CFR 351.401(f)(1) and (2). Consistent with the most recently completed administrative review, the Department preliminarily determines that SSFC and SMTC should be treated as a single entity (*i.e.*, Shinkong) for purposes of calculating an antidumping margin pursuant to 19 CFR 351.401(f).<sup>7</sup> SMTC was established in October 2004 and it is a wholly-owned subsidiary of SSFC. SSFC and SMTC produce similar or identical merchandise. Evidence on the record shows that SSFC and SMTC both have similar production facilities to produce the subject merchandise. Additionally, the level of common ownership between SSFC and SMTC creates the fact that operations are intertwined to provide a significant potential for manipulation of price or production. SMTC is as a wholly-owned subsidiary of SSFC and, during the POR, almost all of the subject merchandise under review produced by SMTC was sold to SSFC for re-sale in the home market, United States market, and third country markets.

**Comparisons to Normal Value for Shinkong**

Shinkong did not have affiliated U.S. customers. Therefore, to determine whether sales of PET Film were made at less than NV, we compared Shinkong's export price (EP) sales made to unaffiliated customers to NV, as described below in the "Export Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(2) of the Act, we compared the EP of individual transactions to monthly weighted-average NVs.

**Selection of Comparison Market**

To determine whether there was a sufficient volume of sales of PET Film in the home market to serve as a viable basis for calculating NV, we compared the volume of Shinkong's home market sales of the foreign like product to the volume of its U.S. sales of the subject

<sup>1</sup> See *Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) From Taiwan*, 67 FR 44174 (July 1, 2002), as corrected in 67 FR 46566 (July 15, 2002).

<sup>2</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity To Request Administrative Review*, 75 FR 38074, 38075 (July 1, 2010).

<sup>3</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Deferral of Initiation of Administrative Review*, 75 FR 53274, 53275 (August 31, 2010).

<sup>4</sup> See the section "Use of Facts Otherwise Available and Adverse Facts Available," below.

<sup>5</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) From Taiwan: Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review*, 76 FR 13128 (March 10, 2011).

<sup>6</sup> See Memorandum to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Polyethylene Terephthalate Film, Sheet, and Strip From Taiwan: Final Scope Ruling on Amorphous Polyethylene Terephthalate Film," dated December 22, 2010. This public document is on file at the Department's Central Records Unit, Room 7046 of the main Commerce Building.

<sup>7</sup> See Memorandum to Mark Hoadley, Program Manager, AD/CVD Operations, Office 6, "Analysis for the Preliminary Results of the 2009-2010 Administrative Review of the Antidumping Duty Order on Polyethylene Terephthalate Film, Sheet, and Strip From Taiwan: Shinkong Synthetic Fibers Corporation and Shinkong Materials Technology Co. Ltd.," dated August 1, 2011 (Shinkong Calculation Memorandum).

merchandise, in accordance with section 773(a)(1) of the Act. In accordance with section 773(a)(1)(B) of the Act, and 19 CFR 351.404(b), because Shinkong'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 have determined that the home market was viable for comparison purposes.

### Product Comparisons

Pursuant to section 771(16) of the Act, we determined that products sold by the respondents, as described in the "Scope of the Order" section above, in Taiwan during the POR are foreign like products for purposes of determining appropriate product comparisons to U.S. sales. For product comparisons, we have relied on five criteria to match U.S. sales of subject merchandise to comparison-market sales (in order of importance): Grade, Specification, Thickness, Thickness Category, and Surface Treatment.<sup>8</sup> Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product on the basis of the characteristics listed above.

### Date of Sale

The Department normally uses invoice date as date of sale, consistent with 19 CFR 351.401(i). Shinkong reported that, on occasion, changes to the terms of sale occurred before subject merchandise was shipped due to the customer's request or because of Shinkong's production capacity. According to Shinkong, during the POR, the terms of sale changed for some home market sales after the initial sales agreements were made and that, therefore, the terms of sale were finalized in the Government Uniform Invoice (GUI).<sup>9</sup> As such, we preliminarily determine that for sales in the home market, and for sales to the United States made through domestic trading companies, the GUI date, *i.e.*, the date on which the terms of home market sales are finalized,<sup>10</sup> is the most appropriate date to use as Shinkong's date of sale. For sales made directly to U.S. customers, Shinkong stated that it issues its commercial invoice after production of subject merchandise is completed, at which time the terms of sale have been finalized. Therefore, we preliminarily determine that, for sales

<sup>8</sup> See the Department's September 27, 2010 Antidumping Duty Questionnaire to Shinkong, at sections B and C.

<sup>9</sup> See Shinkong's November 1, 2010 questionnaire response at 17.

<sup>10</sup> *Id.*

made directly to the U.S. market, the commercial invoice date is the most appropriate date to use as Shinkong's date of sale in accordance with 19 CFR 351.401(i). Evidence on the record also demonstrates that, with respect to Shinkong's sales to the United States, for some sales, the shipment date occurred prior to the invoice date.<sup>11</sup> In such cases, we limit the sales date (*i.e.*, invoice date) to no later than shipment date.<sup>12</sup>

### Margin Calculation

#### Export Price

In calculating the U.S. price (USP) for Shinkong, we used EP, as defined in section 772(a) of the Act, because sales to the first unaffiliated U.S. customer occurred before importation. We based EP on packed prices to customers in the United States. We made deductions from USP for the following movement expenses in accordance with section 772(c)(2)(A) of the Act: Domestic inland freight from plant to port of exportation, brokerage and handling incurred in the country of manufacture, marine insurance and international freight.

#### Normal Value

##### A. Quarterly Cost of Production (COP)

Based on a review of record evidence, Shinkong did not appear to experience significant changes in cost of manufacturing (COM) during this POR. Therefore, we followed our normal methodology of calculating an annual weighted-average cost in conducting the sales-below-cost test described below.

##### B. COP Analysis

Pursuant to 773(b)(2)(A)(ii) of the Act, because the Department had disregarded certain of Shinkong's sales in the most recently completed review of this order,<sup>13</sup> the Department had reasonable grounds to believe or suspect that Shinkong made home market sales at prices below COP in this review. As a result, the Department was directed under section 773(b) of the Act to determine whether Shinkong made

<sup>11</sup> See Shinkong's May 23, 2011 supplemental questionnaire response at Exhibit 2.

<sup>12</sup> See, *e.g.*, *Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 75 FR 7244, 7251 (February 18, 2010), unchanged in *Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 41808 (July 19, 2010).

<sup>13</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip from Taiwan: Preliminary Results of Antidumping Duty Administrative Review*, 69 FR 18531, 18534 (April 8, 2004).

home market sales during the POR at prices below COP.

### C. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of Shinkong's cost of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses (G&A), interest expenses and home market packing costs. These calculations include revisions by the Department to the COP information reported by Shinkong, consistent with Department practice, and previous reviews. Specifically, we adjusted the G&A ratios for SSFC and SMTC, applied the adjusted ratios to each company's COM, and then weight-averaged the two COP databases into one set of cost data.<sup>14</sup>

### D. COP Test

On a product-specific basis, we compared the revised COP figures to home market prices net of applicable billing adjustments, discounts and rebates, movement charges, selling expenses, and packing to determine whether home market sales had been made at prices below COP. In calculating product-specific costs, we ignored the Grade product characteristic reported by Shinkong, as Grade differences are the result of inadvertent errors in production that lead to different qualities of PET Film and not variances in production costs.<sup>15</sup> In determining whether to disregard home market sales made at prices below 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 made at prices which did not permit the recovery of all costs within a reasonable period of time in the normal course of trade.

<sup>14</sup> See, *e.g.*, *Certain Steel Nails From the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value*, 73 FR 33985, 33988 (June 16, 2008) and accompanying Issues and Decision Memorandum at Comment 11, and *Silicomanganese From Brazil: Final Results of Antidumping Duty Administrative Review*, 69 FR 13813, 13814 (March 24, 2004) and accompanying Issues and Decision Memorandum at Comment 11. See also Memorandum to Mark Hoadley, Program Manager, AD/CVD Operations, Office 6, "Cost of Production and Constructed Value Adjustments for the Preliminary Results—Shinkong Synthetic Fibers Corporation (SSFC) and Shinkong Materials Technology Co. Ltd (SMTC) (collectively, Shinkong)," dated August 1, 2011.

<sup>15</sup> See Shinkong's March 4, 2011 submission at Exhibit 8. When producing PET Film, Shinkong's expectation is that the finished product will contain no flaws (*i.e.*, Grade A). However, inadvertent production errors occur, giving way to the different Grades.

In accordance with section 773(b)(2)(C) of the Act, where less than 20 percent of a given product was sold at prices less than COP, we did not disregard any below-cost sales of that product, because the below-cost sales were not made in “substantial quantities.” Where 20 percent or more of a given product was sold at prices less than COP, we disregarded the below cost sales if: (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 weighted-average COP figures for the POR, they were made 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. Based on this analysis, we found that Shinkong did have below cost sales that must be disregarded. We used the remaining home market sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

#### E. Constructed Value

After disregarding certain sales as below cost, as described above, there were home market sales of contemporaneous identical and similar products that remained, which allowed for price-to-price comparisons for all margin calculations. Therefore, the Department did not need to rely on constructed value for any calculations for these preliminary results.

#### F. Price-to-Price Comparisons

We calculated NV based on packed prices (*i.e.*, including costs for packing) to unaffiliated customers in the home market.<sup>16</sup> We used Shinkong’s adjustments and deductions as reported. We made deductions, where appropriate, for foreign inland freight pursuant to section 773(a)(6)(B) of the Act. In addition, for comparisons involving similar merchandise, we made adjustments for cost differences attributable to the physical differences between the products compared, pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We also made adjustments for differences in the circumstances of sale, in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410, specifically for imputed credit expenses. Finally, we deducted home market packing costs and added U.S. packing costs in

accordance with section 773(a)(6)(A) and (B) of the Act.

#### G. Arm’s-Length Test

The Department may calculate NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the prices at which sales are made to parties not affiliated with the exporter or producer; *i.e.*, sales to home market affiliates must be at arm’s-length.<sup>17</sup> Sales to affiliated customers for consumption in the home market that are determined not to be at arm’s-length are excluded from our analysis. To test whether sales are made at arm’s-length prices, the Department compares the prices of sales of comparable merchandise to affiliated and unaffiliated customers, net of all movement charges, direct selling expenses, and packing. Pursuant to 19 CFR 351.403(c), and in accordance with the Department’s practice, when the prices charged to an affiliated party are, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise comparable to that sold to the affiliated party, we determine that the sales to the affiliated party are at arm’s-length.<sup>18</sup>

In this proceeding, Shinkong reported sales of the foreign like product to affiliated customers who consumed the purchased material. Shinkong’s sales to these affiliated home market customers did not pass the arm’s-length test, and were therefore excluded from our analysis.<sup>19</sup>

#### H. Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable we base NV on sales made in the home market at the same level of trade (LOT) as the sales in the U.S. market. To determine whether NV sales are at a different LOT than U.S. sales, we examine selling functions along the chain of distribution between the respondents and the unaffiliated customer for EP sales, and between the respondents and the affiliated U.S. importer for constructed export price sales. 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, we make an LOT

adjustment pursuant to section 773(a)(7)(A) of the Act.

In implementing these principles, we examined information provided by Shinkong regarding the selling functions involved in its home market and U.S. sales, including a description of these selling functions, listed in Exhibit 8 of Shinkong’s November 1, 2010 submission. Shinkong claims one LOT in both the U.S. and home market, and that the same selling functions were conducted in the U.S. and home market, leading Shinkong to claim the same LOT for the U.S. and home market.<sup>20</sup> Based on our analysis, we preliminarily determine that Shinkong sold at one LOT in both its home market and the United States. We also preliminarily determine that both the home market and the U.S. LOTs are the same and that, therefore, an LOT adjustment is not warranted.

#### Currency Conversions

Pursuant to section 773A of the Act and 19 CFR 351.415, we made currency conversions for Shinkong’s sales based on the daily exchange rates in effect on the dates of the relevant U.S. sales as certified by the Federal Reserve Bank of New York.

#### Use of Facts Otherwise Available and Adverse Facts Available

Section 776(a) of the Act provides that the Department shall apply “facts otherwise available” if: (1) Necessary information is not on the record; or (2) an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Such an adverse inference may include reliance on information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

As referenced above, Nan Ya did not respond to the Department’s initial

<sup>16</sup> Shinkong sold a small amount of foreign like product to its affiliates in the home market for consumption during the POR. These sales have failed the arm’s-length test and therefore have been excluded from the calculation of NV. See “Arm’s Length Test” section, below.

<sup>17</sup> See 19 CFR 351.403(c).

<sup>18</sup> See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69187 (November 15, 2002).

<sup>19</sup> See section 773(b)(1) of the Act; see also Shinkong Calculation Memorandum.

<sup>20</sup> See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) From Taiwan*, 66 FR 65889, 65891 (December 21, 2001).

questionnaire in this administrative review.<sup>21</sup> As a result, Nan Ya did not provide the requested information that is necessary for the Department to calculate an antidumping duty rate for the company in this administrative review. Therefore, in reaching these preliminary results, pursuant to section 776(a) of the Act, the Department has based Nan Ya's antidumping duty rate on facts otherwise available on the record. Further, because Nan Ya did not respond to the Department's questionnaire, the Department determines that Nan Ya withheld information requested by the Department in accordance with sections 776(a)(2)(A) and (B) of the Act, and significantly impeded this proceeding in accordance with section 776(a)(2)(C) of the Act. Thus, we find that Nan Ya failed to cooperate to the best of its ability to provide the Department with requested information. Therefore, pursuant to section 776(b) of the Act, the Department has determined that, when selecting from among the facts otherwise available, an adverse inference through selection of adverse facts available (AFA) is warranted with respect to Nan Ya.

#### Selection of the AFA Rate

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) provide that the Department may rely on information derived from four particular sources, including data related to cooperative interested parties placed on the record: (1) The petition; (2) a final determination in the investigation; (3) any previous review or determination; or (4) any information placed on the record. The Department's practice is to select an AFA rate that is sufficiently adverse "as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner," and that ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."<sup>22</sup> Specifically, the Department's practice

in reviews, in selecting a rate as a total AFA rate, is to use the highest weighted-average margin on the record of the proceeding which, to the extent practicable, can be corroborated (assuming the rate is based on secondary information).<sup>23</sup> The Court of International Trade (CIT) and the Court of Appeals for the Federal Circuit (CAFC) have each affirmed decisions to select the highest weighted-average margin from any prior segment of the proceeding as the AFA rate on numerous occasions.<sup>24</sup> The Department also has the discretion of using a transaction-specific margin of a company to establish total AFA rates where it finds it to be appropriate under section 776(b) of the Act.<sup>25</sup> In choosing the appropriate balance between providing a respondent with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent's prior commercial activity, selecting the highest prior weighted-average margin or, as in this case, one of the highest prior transaction-specific margins, reflects "a common sense inference that the highest prior margin is the most probative evidence of current margins \* \* \*"<sup>26</sup>

The Department must "balance the statutory objectives of finding an accurate dumping margin and inducing compliance" when selecting the appropriate AFA rate.<sup>27</sup> At a minimum, an AFA rate must reasonably reflect an accurate estimate of the actual rate, "albeit with some built-in increase intended as a deterrent to non-compliance."<sup>28</sup> The estimated rate from

<sup>23</sup> *Id.*

<sup>24</sup> See, e.g., *NSK Ltd. v. United States*, 346 F. Supp. 2d 1312, 1335 (CIT 2004) (affirming a 73.55 percent total AFA rate, the highest available dumping margin calculated for a different respondent in the investigation); see also *Kompass Food Trading International v. United States*, 24 CIT 678, 683–84 (2000) (affirming a 51.16 percent total AFA rate, the highest available dumping margin for a different, fully cooperative respondent); and *Shanghai Taoen International Trading Co., Ltd. v. United States*, 360 F. Supp. 2d 1339, 1348 (CIT 2005) (affirming a 223.01 percent total AFA rate, the highest available dumping margin for a different respondent in a previous administrative review).

<sup>25</sup> See, e.g., *iScholar, Inc., v. United States*, 2011 Ct. Intl. Trade LEXIS 3, 9 (January 13, 2011) (affirming the application of a transaction-specific margin as AFA for a different respondent); see also *Certain Lined Paper Products From India: Notice of Final Results of Antidumping Duty Administrative Review*, 75 FR 7563, 7563 (February 22, 2010).

<sup>26</sup> See *Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185, 1190 (CAFC 1990).

<sup>27</sup> See *Timken Co. v. United States*, 354 F.3d 1334, 1345 (Fed. Cir. 2004).

<sup>28</sup> See *F.lli de Cecco di Filippo Fara S. Martino S.p.A. v. United States*, 216 F.3d 1027, 1032 (Fed. Cir. 2000).

the petition was 15.65 percent,<sup>29</sup> and the highest weighted-average margin calculated for any party in these proceedings is 18.30 percent, which was calculated for Nan Ya during the most recently completed administrative review.<sup>30</sup> As Nan Ya did not respond to the Department's antidumping questionnaire in this segment of the proceeding knowing that its current weighted-average margin is 18.30 percent, we find that this margin would not be satisfactory as AFA to compel Nan Ya to participate in the Department's antidumping proceedings. As a result, the Department finds that it is not appropriate to apply any of the weighted-average margins calculated during the history of this proceeding as AFA.

Instead, we have assigned to exports of subject merchandise produced and/or exported by Nan Ya the rate of 99.31 percent, which we preliminarily determine is the most appropriate transaction-specific rate that we calculated in the 2008–2009 administrative review of the order with respect to Nan Ya.<sup>31</sup> We find that this rate is sufficiently adverse to serve the purposes of facts available and is reasonably related to the respondent's contemporaneous commercial, customary selling practices, because this AFA rate is a transaction-specific rate determined for Nan Ya itself in the most recently completed administrative review of this proceeding.<sup>32</sup>

#### Corroboration of Secondary Information

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources

<sup>29</sup> See *Notice of Initiation of Antidumping Duty Investigations: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) From India and Taiwan*, 66 FR 31888 (June 13, 2001).

<sup>30</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip From Taiwan: Amended Final Results of Antidumping Duty Review*, 76 FR 18519, 18520 (April 4, 2011).

<sup>31</sup> See Memorandum to The File, "Transfer of Record Information from the Administrative Review for the Period July 1, 2008 through June 30, 2009," dated August 1, 2011; see also Memorandum to Mark Hoadley, Program Manager, Office 6, "Assignment of the Adverse Facts Available Rate for Nan Ya Plastics Corporation, Ltd.," dated August 1, 2011 (Nan Ya AFA Memorandum).

<sup>32</sup> See *Magnesium Metal From the Russian Federation: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 39919 (August 10, 2009) and accompanying Issues and Decision Memorandum at 10–15 (in which the Department applied, as AFA, a transaction-specific margin calculated in a prior administrative review to the same respondent).

<sup>21</sup> See Memorandum to the File, "Nan Ya Plastics Corporation, Ltd. Non-Participation in the Administrative Review for the Period July 1, 2009, through June 30, 2010," dated August 1, 2011.

<sup>22</sup> See the Statement of Administrative Action Accompanying the Uruguay Round Agreement Act, H.R. Rep. No. 316, 103d Cong., 2d Sess. 870 (SAA) at 870 and *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909, 8911 (February 23, 1998); see also *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the Seventh Administrative Review; Final Results of the Eleventh New Shipper Review*, 70 FR 69937, 69939 (November 18, 2005).

that are reasonably at its disposal. Secondary information is defined as information derived from the petition, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.<sup>33</sup> To corroborate means that the Department will satisfy itself that the secondary information to be used has probative value.<sup>34</sup> To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used.<sup>35</sup>

The AFA rate of 99.31 percent selected for Nan Ya is based on information Nan Ya itself submitted in a previous segment of this proceeding, the 2008–2009 administrative review. Because: (1) The AFA rate of 99.31 percent is based solely on Nan Ya's questionnaire responses and accompanying data from the immediately preceding administrative review for the period 2008–2009; (2) this information was provided by Nan Ya; and (3) we used this information without objections to calculate margins for the previous review, we find that the rate is reliable and relevant for use in this administrative review and, therefore, it has probative value for use as AFA. As such, the Department finds this rate to be corroborated to the extent practicable, consistent with section 776(c) of the Act.

Additionally, in selecting this particular transaction-specific margin to use as the AFA rate for Nan Ya, the Department has analyzed the underlying transaction to ensure that it is not inappropriate. Specifically, the Department examined the individual transaction-specific margins for the entire 2008–2009 POR for sales to the United States by Nan Ya. Our review of the individual transaction-specific margins affirms that this rate is neither aberrational nor unusual in terms of transaction quantities or products. The details of the secondary information analyzed by the Department contain business proprietary information, and

have been placed on the record in the Nan Ya AFA Memorandum.

### Preliminary Results of Review

As a result of our review, we preliminarily determine the following weighted-average antidumping duty margins exist for the period July 1, 2009, through June 30, 2010.

Producer/exporter	Weighted-average margin percent
Nan Ya Plastics Corporation, Ltd .....	99.31
Shinkong Synthetic Fibers Corporation .....	6.98

### Assessment Rates

Pursuant to 19 CFR 351.212(b), the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. We will instruct CBP to liquidate entries of merchandise produced and/or exported by Shinkong and Nan Ya. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. For assessment purposes, where possible, we calculate importer-specific (or customer-specific) *ad valorem* assessment rates based on the ratio of the total amount of the dumping duties calculated for the examined sales to the total entered value of those same sales.<sup>36</sup> However, where the respondents do not report the entered value for their sales, we calculate importer-specific (or customer-specific) per-unit duty assessment rates. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any assessment rate calculated in the final results of this review is above *de minimis*.

### Cash Deposit Requirements

The following deposit requirements will be effective for all shipments of PET Film from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for companies under review will be the rate established in the final results of this review (except, if the rate is *de minimis*, *i.e.*, less than 0.5 percent, a zero cash deposit rate will be required for that company); (2) for previously reviewed or investigated companies not listed above, 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 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 or any previous review, the cash deposit rate will be the all others rate for this proceeding, 2.40 percent. These deposit requirements, when imposed, shall remain in effect until further notice.

### Disclosure and Public Comment

We intend to disclose the calculations used in our analysis to parties in this review within five days of the date of publication of this notice in accordance with 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**.<sup>37</sup> 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. The Department typically requests that interested parties submit case briefs within 30 days of the date of publication of this notice. However, we plan to issue a post-preliminary supplemental questionnaire and, therefore, will be extending the case brief deadline. The Department will inform interested parties of the updated briefing schedule when it has been confirmed. Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed not later than five days after the time limit for filing case briefs.<sup>38</sup> Parties who submit case briefs or rebuttal briefs in this review are requested to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Executive summaries should be limited to five pages total, including footnotes.

We intend to issue the final results of this administrative review, including the results of our analysis of issues raised in the written comments, within 120 days of publication of these preliminary results in the **Federal Register**.<sup>39</sup>

### Notification to Importers

This notice also serves as a preliminary reminder to importers of

<sup>37</sup> See 19 CFR 351.310.

<sup>38</sup> See 19 CFR 351.309(c) and (d) (for a further discussion of case briefs and rebuttal briefs, respectively).

<sup>39</sup> See section 751(a)(3)(A) of the Act.

<sup>33</sup> See SAA at 870.

<sup>34</sup> See *id.*

<sup>35</sup> See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan: Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan: Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997).

<sup>36</sup> See 19 CFR 351.212(b).

their responsibility under 19 CFR 351.402(f) 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 Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

These preliminary results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 1, 2011.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

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**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-533-824]

#### **Polyethylene Terephthalate Film, Sheet, and Strip From India: Preliminary Results of Antidumping Duty Administrative Review**

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

**SUMMARY:** The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on polyethylene terephthalate film, sheet, and strip (PET Film) from India. This review covers one respondent, Ester Industries Ltd. (Ester), a producer and exporter of PET Film from India. The Department preliminarily determines that Ester did not make sales of PET Film from India at below normal value (NV) during the July 1, 2009, through June 30, 2010, period of review. The preliminary results are listed below in the section titled "Preliminary Results of Review." Interested parties are invited to comment on these preliminary results.

**DATES:** *Effective Date:* August 5, 2011.

**FOR FURTHER INFORMATION CONTACT:** Elfi Blum, or Toni Page, 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) 482-0197 or (202) 482-1398, respectively.

**SUPPLEMENTARY INFORMATION:**

### Background

On July 1, 2002, the Department published in the **Federal Register** the antidumping duty order on PET Film from India. *See Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip from India*, 67 FR 44175 (July 1, 2002) (*PET Film India Order*). On July 1, 2010, the Department published a notice of opportunity to request an administrative review of this order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 75 FR 38074 (July 1, 2010). In response, on July 27, 2010, and August 2, 2010, Ester and SRF Limited (SRF), respectively, requested that the Department conduct an administrative review of their sales of PET Film in the U.S. market. On July 29, 2010, Dupont Teijin Films, Mitsubishi Polyester Film, Inc., SKC, Inc. and Toray Plastics (America) Inc. (collectively, the petitioners) requested an administrative review of Ester.

On August 31, 2010, the Department published a notice of initiation of an administrative review of the antidumping duty order on PET Film from India covering the period July 1, 2009, through June 30, 2010. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Deferral of Initiation of Administrative Review*, 75 FR 53274, 53276 (August 31, 2010). The Department initiated the review with respect to Ester and SRF.

On September 15, 2010, the Department issued an antidumping duty questionnaire to the respondents. On October 1, 2010, SRF withdrew its request for an administrative review, and the Department rescinded the administrative review of SRF on July 7, 2011. *See Polyethylene Terephthalate Film, Sheet and Strip From India: Rescission, in Part, of Antidumping Duty Administrative Review*, 76 FR 39855 (July 7, 2011).

Ester timely submitted section A of the questionnaire on October 5, 2010, and sections B through D on November 3, 2010. On February 3, 2011, and on February 11, 2011, the Department issued its first supplemental questionnaires to sections D, and A through C, respectively. Ester timely filed its response to section D on March 1, 2011, and to sections A through C on April 15, 2011. The Department issued its second supplemental questionnaire to section D on March 18, 2011, and

Ester filed its timely response on April 15, 2011.

On April 1, 2011, the Department extended the time period for issuing the preliminary results of the administrative review. *See Polyethylene Terephthalate Film, Sheet and Strip From India: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 76 FR 18155 (April 1, 2011).

The Department issued its second supplemental questionnaire to sections A through C on June 17, 2011, and Ester filed its response to this questionnaire on July 5, 2011.

### Scope of the Order

The products covered by the antidumping duty order are all gauges of raw, pretreated, or primed PET film, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET film are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00.90. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the antidumping duty order is dispositive.

### Period of Review

The period of review (POR) is July 1, 2009, through June 30, 2010.

### Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of Ester's home market sales of the foreign like product to the volume of its U.S. sales of subject merchandise, in accordance with section 773(a)(1)(B)(i) of the Tariff Act of 1930, as amended (the Act). Based on this comparison, we determined that Ester's home market was viable during the POR.

### Product Comparisons

Pursuant to section 771(16)(A) of the Act, for purposes of determining appropriate product comparisons to the U.S. sales, the Department considers all products, as described in the "Scope of the Order" section of this notice above, that were sold in the comparison market in the ordinary course of trade. In accordance with sections 771(16)(B) and