

14th and Constitution Ave., NW., Washington, DC.

*Comments:* None received. Decision: Approved. We know of no instruments of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, that was being manufactured in the United States at the time of its order.

*Docket Number:* 08–040. *Applicant:* New Mexico Institute of Mining and Technology; Socorro, New Mexico 87801. *Instrument:* Unit Telescope. *Manufacturer:* Advanced Mechanical and Optical Systems SA (AMOS), Belgium. *Intended Use:* See notice at 73 FR 52644, September 10, 2008. *Reasons:* The instrument has the following features which are essential to the research. The instrument is able to be relocated, the functions of the instrument are able to be controlled and monitored over a network connection, and the instrument has an aperture greater than one-meter.

*Docket Number:* 08–042. *Applicant:* University of Alabama at Birmingham, Birmingham, AL 35294. *Instrument:* FIE Vitrobot. *Manufacturer:* FEI Company, the Netherlands. *Intended Use:* See notice at 73 FR 52644, September 10, 2008. *Reasons:* The instrument has a controlled environmental chamber and the capability of fully automated operation. These features are required for the research.

Dated: September 30, 2008.

**Faye Robinson,**

Director, Statutory Import Programs Staff,  
Import Administration.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–570–901]

#### Certain Lined Paper Products from the People's Republic of China: Notice of Preliminary Results of the Antidumping Duty Administrative Review

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

**SUMMARY:** The Department of Commerce (“the Department”) is conducting the first administrative review of the antidumping duty order on certain lined paper products (“CLPP”) from the People's Republic of China (“PRC”) with respect to four producers/exporters for the period April 17, 2006, through August 31, 2007. We have preliminarily determined that sales have been made

below normal value (“NV”) by Shanghai Lian Li Paper Products Co., Ltd. (“Lian Li”). If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection (“CBP”) to assess antidumping duties on all appropriate entries of subject merchandise during the period of review.

Interested parties are invited to comment on these preliminary results. We intend to issue the final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (“the Act”).

**EFFECTIVE DATE:** October 7, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Victoria Cho or Cindy Lai Robinson, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5075 or (202) 482–3797, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Background

On September 28, 2006, the Department published in the **Federal Register** an antidumping duty order on certain lined paper products from the PRC.<sup>1</sup> On September 4, 2007, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order of certain lined paper products from the PRC for the period April 17, 2006, through August 31, 2007.<sup>2</sup> On September 28, 2007, the following parties requested the Department to conduct an administrative review of themselves in the antidumping review of CLPP from the PRC: Lian Li; Hwa Fuh Plastics Co. Ltd./Li Teng Plastics (Shenzhen) Co., Ltd. (“H.F. Plastics/L.T. Plastics”); Leo's Quality Products Co., Ltd./Denmax Plastic Stationery Factory (“Denmax/Leo's Products”); and the Watanabe Group (which consists of the following three companies: Watanabe Paper Products (Shanghai) Co. Ltd. (“Watanabe Shanghai”); Watanabe Paper Products (Linqing) Co. Ltd. (“Watanabe Linqing”); and Hotrock

Stationery (Shenzhen) Co. Ltd. (“Hotrock Shenzhen”)

On October 1, 2007, the Association of American School Paper Suppliers, a domestic interested party and Petitioner in the underlying investigation, requested that the Department conduct an administrative review of the Watanabe Group and Lian Li as well as any of these companies' subsidiaries or affiliates (as well as predecessor and successor companies), whether directly to the United States or indirectly through third countries. On October 31, 2007, the Department initiated this review with respect to all requested companies. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 72 FR 61621 (October 31, 2007).

On May 6, 2008, the Petitioner submitted a request for an extension for these preliminary results. On June 5, 2008, the Department published a notice extending the time period for issuing the preliminary results for 120 days to September 29, 2008. See *Certain Lined Paper Products From the People's Republic of China: Extension of Time Limits for Preliminary Results of Antidumping Duty Administrative Review*, 73 FR 31964 (June 5, 2008).

#### Respondent Selection and Quantity and Value

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter or producer of the subject merchandise.<sup>3</sup> However, section 777A(c)(2) of the Act gives the Department discretion to limit its examination to a reasonable number of exporters or producers if it is not practicable to examine all exporters or producers involved in the review.

The Department obtained CBP quantity and value data for the parties for which a review was requested. After assessing its resources, the Department determined that it can reasonably examine one of the four exporters subject to this review. On November 7, 2007, the Department selected Lian Li as a mandatory respondent in this investigation.<sup>4</sup>

On November 8, 2007, the Department issued its initial sections A, C, and D antidumping duty questionnaire to Lian Li. On December 6, 2007, Lian Li

<sup>1</sup> See *Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia*, 71 FR 56949 (September 28, 2006) (Lined Paper Order).

<sup>2</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 50657 (September 4, 2007).

<sup>3</sup> Regarding respondent selection in general, see also 19 CFR 351.204(c).

<sup>4</sup> See Memorandum to Wendy J. Frankel, Director, AD/CVD Operations, Office 8, from Marin Weaver, International Trade Compliance Analyst, AD/CVD Operations, Office 8, titled, “Selection of Respondents for the Antidumping Review of Certain Lined Paper Products from the People's Republic of China” (November 7, 2007) (“Respondent Selection Memo”).

submitted its Section A response to the Department's original questionnaire, and on January 23, 2008, Lian Li submitted its supplemental Section A questionnaire response. On January 3, 2008, Lian Li submitted its section C response to the Department's original questionnaire and on March 6, 2008, Lian Li submitted its supplemental section C questionnaire response. On January 10, 2008, Lian Li submitted its Section D response to the Department's original questionnaire and on January 23, 2008, Lian Li submitted its supplemental section D questionnaire response. On April 11, 2008, Lian Li submitted its fourth and fifth supplemental responses to the Department's supplemental questionnaires.

On May 1, 2008, the Petitioner submitted deficiency comments regarding Lian Li's supplemental questionnaire response.

On September 12, 2008, the Petitioner submitted pre-preliminary results comments. On September 18, 2008, Lian Li submitted a letter to correct certain errors contained in its factors of production ("FOP") database.

#### Period of Review

The period of review ("POR") is April 17, 2006, through August 31, 2007.

#### Surrogate Country and Factors

On November 9, 2007, the Department requested that the Office of Policy provide a list of surrogate countries for this review.<sup>5</sup> On December 20, 2007, the Office of Policy issued its list of surrogate countries.<sup>6</sup> On January 18, 2008, the Department requested that interested parties submit surrogate country selection comments. On February 22, 2008, the Department selected its surrogate country for this review.<sup>7</sup> The Department received Lian Li's and the Petitioner's comments on April 1, and on April 8 and 15, 2008, respectively.

<sup>5</sup> See Memorandum to Ron Lorentzen, Director, Office of Policy, from Wendy Frankel, Director, Office 8, AD/CVD Operations, titled, "Certain Lined Paper Products from the People's Republic of China: Request for Surrogate Country Selection" (November 9, 2007).

<sup>6</sup> See Memorandum to Wendy Frankel regarding the Request for a List of Surrogate Countries, dated December 20, 2007 ("Office of Policy Surrogate Countries Memo").

<sup>7</sup> See Memorandum to the File from Andrea Berton, International Trade Compliance Analyst, Office 8, AD/CVD Operations, titled, "2006/2007 Administrative Review of the Antidumping Duty Order of Certain Lined Paper Products from the People's Republic of China: Selection of a Surrogate Country" (February 22, 2008) ("Surrogate Country Selection Memo").

#### Scope of the Order

The scope of this order includes certain lined paper products, typically school supplies (for purposes of this scope definition, the actual use of or labeling these products as school supplies or non-school supplies is not a defining characteristic) composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets (there shall be no minimum page requirement for looseleaf filler paper) including but not limited to such products as single- and multi-subject notebooks, composition books, wireless notebooks, looseleaf or glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8-3/4 inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or tear-out size), and are measured as they appear in the product (i.e., stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper). However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points. Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise is within the scope of this order whether or not the lined paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto.

Specifically excluded from the scope of this order are:

- unlined copy machine paper;
- writing pads with a backing (including but not limited to products commonly known as "tablets," "note pads," "legal pads," and "quadrille pads"),

provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole-punched or drilled filler paper;

- three-ring or multiple-ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;
- index cards;
- printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;
- newspapers;
- pictures and photographs;
- desk and wall calendars and organizers (including but not limited to such products generally known as "office planners," "time books," and "appointment books");
- telephone logs;
- address books;
- columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data;
- lined business or office forms, including but not limited to: pre-printed business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;
- lined continuous computer paper;
- boxed or packaged writing stationary (including but not limited to products commonly known as "fine business paper," "parchment paper", and "letterhead"), whether or not containing a lined header or decorative lines;
- Stenographic pads ("steno pads"), Gregg ruled ("Gregg ruling" consists of a single- or double-margin vertical ruling line down the center of the page. For a six-inch by nine-inch stenographic pad, the ruling would be located approximately three inches from the left of the book.), measuring 6 inches by 9 inches;

Also excluded from the scope of this order are the following trademarked products:

- Fly™ lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a Fly™ pen-top computer. The product must bear the valid trademark Fly™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- Zwipes™: A notebook or notebook

organizer made with a blended polyolefin writing surface as the cover and pocket surfaces of the notebook, suitable for writing using a specially-developed permanent marker and erase system (known as a Zwipes™ pen). This system allows the marker portion to mark the writing surface with a permanent ink. The eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing the ink to be removed. The product must bear the valid trademark Zwipes™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

- **FiveStar® Advance™:** A notebook or notebook organizer bound by a continuous spiral, or helical, wire and with plastic front and rear covers made of a blended polyolefin plastic material joined by 300 denier polyester, coated on the backside with PVC (poly vinyl chloride) coating, and extending the entire length of the spiral or helical wire. The polyolefin plastic covers are of specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). Integral with the stitching that attaches the polyester spine covering, is captured both ends of a 1" wide elastic fabric band. This band is located 2–3/8" from the top of the front plastic cover and provides pen or pencil storage. Both ends of the spiral wire are cut and then bent backwards to overlap with the previous coil but specifically outside the coil diameter but inside the polyester covering. During construction, the polyester covering is sewn to the front and rear covers face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. The flexible polyester material forms a covering over the spiral wire to protect it and provide a comfortable grip on the product. The product must bear the valid trademarks FiveStar® Advance™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- **FiveStar Flex™:** A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by 300 denier

polyester spine cover extending the entire length of the spine and bound by a 3–ring plastic fixture. The polyolefin plastic covers are of a specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). During construction, the polyester covering is sewn to the front cover face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. During construction, the polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. Each ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically positioned on the outside back cover.

The product must bear the valid trademark FiveStar Flex™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope). Merchandise subject to this order is typically imported under headings 4820.10.2050, 4810.22.5044, 4811.90.9090, 4820.10.2010, 4820.10.2020 of the Harmonized Tariff Schedule of the United States ("HTSUS"). The HTSUS headings are provided for convenience and customs purposes; however, the written description of the scope of this order is dispositive.

#### Non-Market Economy Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy ("NME") country. *See, e.g., Honey from the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 74764 (December 16, 2005) (unchanged in final).<sup>8</sup> Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. *See, e.g., Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Preliminary Results of Antidumping*

<sup>8</sup> *See Honey from the People's Republic of China: Final Results and Final Rescission, in Part, of Antidumping Duty Administrative Review*, 71 FR 34893 (June 16, 2006).

*Duty Administrative Review*, 70 FR 58672 (October 7, 2005) (unchanged in final);<sup>9</sup> and *Carbazole Violet Pigment 23 from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Rescission in Part*, 71 FR 65073, 65074 (November 7, 2006) (unchanged in final).<sup>10</sup> None of the parties to this proceeding has contested such treatment. Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

#### Surrogate Country

Section 773(c)(4) of the Act requires the Department to value an NME producer's FOPs, to the extent possible, in one or more market-economy countries that (1) are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. The Department determined that India, Indonesia, Sri Lanka, the Philippines, and Egypt are countries comparable to the PRC in terms of economic development. *See "Office of Policy Surrogate Countries Memo."* In addition, based on publicly available information placed on the record (*e.g.*, production data), India is a significant producer of the subject merchandise.<sup>11</sup> *Id.* Further, we have available on the record of this segment of the proceeding information with which to value the FOPs and determine surrogate financial ratios in India. Accordingly, we have selected India as the surrogate country for purposes of valuing the FOPs because it meets the Department's criteria for surrogate-country selection.

#### Application of Facts Available

Section 776(a) of the Act provides that the Department will apply "facts otherwise available" ("FA") if, *inter alia*, necessary information is not available on the record or an interested party: 1) withholds information that has been requested by the Department; 2) fails to provide such information within

<sup>9</sup> *See Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review*, 71 FR 7013 (February 10, 2006)

<sup>10</sup> *See Carbazole Violet Pigment 23 from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Rescission in Part*, 72 FR 26589 (May 10, 2007).

<sup>11</sup> *See Memorandum from Andrea Berton, International Trade Compliance Analyst, Office of AD/CVD Enforcement, through Blanche Ziv, Program Manager, Office of AD/CVD Enforcement, to File, "2006/2007 Administrative Review of the Antidumping Duty Order of Certain Lined Paper Products from the People's Republic of China: Selection of a Surrogate Country"* (February 22, 2008) ("Surrogate Country Memo").

the deadlines established, or in the form or manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; 3) significantly impedes a proceeding; or 4) provides such information, but the information cannot be verified.

To date in this review, as stated above in the "Background" section, the Department has issued five supplemental questionnaires to Lian Li. Although Lian Li responded to the Department's original and five supplemental questionnaires, for the reasons discussed below, the Department finds that the FOP databases submitted by Lian Li for its two unaffiliated suppliers, Shanghai Sentian Paper Product Co., Ltd. ("Sentian") and Shanghai Miaopanfang Paper Product Co., Ltd. ("MPF") cannot be relied on for purposes of calculating NV for these preliminary results. In addition, the Department finds that Lian Li also failed to provide FOP data for certain merchandise it produced and sold in the United States during the POR. Accordingly, the Department finds that for purposes of these preliminary results, application of FA to Lian Li is warranted, in accordance with section 776(a) of the Act.

#### A. Application of Adverse Facts Available for the FOP Data of Lian Li's Suppliers

In its original Section A response, Lian Li stated that, in addition to its own production, it purchased and resold merchandise which was produced by two unaffiliated suppliers, Sentian and MPF. Lian Li provided three separate FOP databases, one for each of the three producers in its original Section D response. It also provided a consolidated FOP database inclusive of FOPs for all three producers. Because the initial FOP databases did not have proper supporting documentation and because Lian Li did not provide reconciliations as requested, on January 17, 2008, the Department issued a supplemental questionnaire. The Department requested that Lian Li provide, for each producer of subject merchandise, reconciliations for the reported FOPs, as was required in the Department's original questionnaire at Appendix V. In the same letter, the Department also requested that Lian Li provide proper worksheets which can be tied to the financial statements or accounting records of each respective producer. Although Lian Li provided some worksheets in its responses dated January 24 and February 27, 2008, the Department found that the "worksheets in and of themselves cannot be relied

upon without support from the appropriate source documentation"<sup>12</sup> and therefore, the Department issued another supplemental Sections C and D questionnaire on March 6, 2008, in which it requested supporting documentation for the three largest raw material inputs and the three largest packing material inputs for June 2006.

In its April 11, 2008, response at 12, Lian Li indicated that because Sentian and MPF are affiliated with each other and share the same management and accounting staff, the same accountant collectively gathered all production, warehouse and sales records. Furthermore, Lian Li stated that the FOP databases provided by Sentian and MPF were based on arbitrary sales and manufacturing costs assigned to each company's books and records by the companies' accountant. Therefore, Lian Li claimed that "the only way to make the cost as accurate as possible based on the accounting records of the affiliated companies is to combine the total production and total consumption of these two affiliated companies together, as they have done in their own records, and calculate a combined variance for both companies."

It is the Department's practice to rely on accurate information submitted by respondents to calculate dumping margins in an antidumping duty proceeding. See *PRC Wooden Bedroom Furniture*.<sup>13</sup> When the Department finds that a respondent's reported information is not reliable, the Department will resort to FA. *Id.* Specifically, in the Department's recent decision in *PRC Wooden Bedroom Furniture*, the Department concluded that a respondent's submitted data are not reliable when the data cannot be tied to reliable financial statements or a reliable financial recording system. In this case, Lian Li states that the reported FOPs of both of its suppliers, Sentian and MPF, are arbitrarily assigned and therefore not accurate. Lian Li further states that the FOP data cannot be tied to the books and records of the two companies. Furthermore, based on the information on the record at this point in the review, it is not clear whether Sentian's and MPF's accounting books and records are reliable, given the arbitrary manner in which sales and costs were assigned.

Because, by Lian Li's own admission, the reported FOP data provided by Sentian and MPF are arbitrary and inaccurate, we preliminarily find that such data are unreliable and therefore cannot be used for these preliminary results. Thus, the Department will use the facts otherwise available to calculate NV for subject merchandise produced by Sentian and MPF for these preliminary results of review.

According to section 776(b) of the Act, if the Department finds that an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information, the Department may use an inference that is adverse to the interests of that party in selecting from the facts otherwise available. See also *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025-26 (September 13, 2005); and *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794-96 (August 30, 2002). Adverse inferences may be employed "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See *Statement of Administrative Action accompanying the Uruguay Round Agreements Act*, H.R. Rep. No. 103-316, Vol. 1, at 870 (1994) (SAA), reprinted in 1994 U.S.C.C.A.N. 4040, 4198-99. Furthermore, "affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference." See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27340 (May 19, 1997); see also *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003) (*Nippon*).

In this case, Sentian and MPF knew that their reported FOP data were inaccurate and based on arbitrarily assigned numbers which could not be tied to their accounting books and records and were therefore unreliable. However, the Department was not informed of such fact until the last supplemental questionnaire response was filed. Sentian and MPF clearly should have known that if the FOP data are arbitrarily assigned numbers and cannot be tied to any of the companies' accounting records, the data cannot be relied upon by the Department. In this regard it is important to note that FOPs for Sentian and MPF were examined and verified in the investigation phase of this proceeding, and where such FOPs were found to be unreliable, the Department in that segment resorted to

<sup>12</sup> See the Department's supplemental Sections C and D questionnaire dated March 6, 2008, at 3.

<sup>13</sup> See *Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Results of New Shipper Review and Partial Rescission of Administrative Review*, 73 FR 8273 (February 13, 2008) ("*PRC Wooden Bedroom Furniture*").

FA, with an adverse inference. Thus, Sentian and MPF were aware of the Department's requirements and standards from the very beginning of this review.

Had Lian Li, Sentian and MPF informed the Department of this problem in its original or first supplemental Section D questionnaire responses, dated January 11 and 23, 2008, respectively, the Department would have had the opportunity to further examine the issue and, if warranted, consider alternatives to the use of the unreliable data. However, Sentian and MPF withheld this information for three additional months until Lian Li filed its response to the Department's March 6, 2008, supplemental questionnaire. As such, the Department preliminarily finds that Sentian and MPF did not act to the best of their ability in this review, within the meaning of section 776(b) of the Act. Therefore, an adverse inference is warranted in selecting from the facts otherwise available with respect to the FOPs for subject merchandise produced by Sentian and MPF. See *Nippon*, 337 F.3d at 1382–83.

In *Nippon*, the Court set out two requirements for drawing an adverse inference under section 776(b) of the Act. First, the Department "must make an objective showing that a reasonable and responsible importer would have known that the requested information was required to be kept and maintained under the applicable statutes, rules, and regulations." Next the Department must "make a subjective showing that the respondent . . . has failed to promptly produce the requested information" and that "failure to fully respond is the result of the respondent's lack of cooperation in either: (a) failing to keep and maintain all required records, or (b) failing to put forth its maximum efforts to investigate and obtain the requested information from its records." The Court clarifies further that "{a}n adverse inference may not be drawn merely from a failure to respond, but only under circumstances in which it is reasonable for Commerce to expect that more forthcoming responses should have been made." See *Nippon*, at 1382–83.

In the underlying investigation, the Department examined and verified the FOPs of Sentian and MPF and where it found that Sentian and MPF were unable to substantiate their reported consumption for a particular FOP, mixed-pulp paper, the Department resorted to FA with an adverse inference. See *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical*

*Circumstances, In Part: Certain Lined Paper Products from People's Republic of China*, 71 FR 53079 (September 8, 2006) ("PRC Lined Paper Investigation Final"), and accompanying Issues and Decision Memorandum at Comment 18.. In its final determination, the Department, citing *Nippon*, concluded that Lian Li and its producers were responsible for demonstrating the reliability of their own data, and found the company unable to substantiate its reported consumption for a particular FOP. Therefore, the Department concluded that Sentian and MPF did not cooperate to the best of their ability with respect to this FOP, mixed-pulp paper consumption, and applied FA with an adverse inference to Sentian's and MPF's paper consumption. As adverse facts available ("AFA"), the Department applied the highest reported paper consumption rate for any single CONNUM from any of Lian Li's other suppliers. *Id.*

Therefore, we preliminarily determine that Sentian and MPF should have known from the beginning of this review that the requested information would be required and that by failing to maintain and provide the information, they have failed to cooperate to the best of their ability. As such, an adverse inference is warranted in this review.

Section 776(b) of the Act provides that the Department may use as AFA information derived from: 1) the petition; 2) the final determination in the investigation; 3) any previous review; or 4) any other information placed on the record. The Department's practice, when selecting an AFA rate from among the possible sources of information, has been to ensure that the margin is sufficiently adverse "as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner." See, e.g., *Certain Steel Concrete Reinforcing Bars from Turkey; Final Results and Rescission of Antidumping Duty Administrative Review in Part*, 71 FR 65082, 65084 (November 7, 2006) (quoting *Carbon and Certain Alloy Steel Wire Rod from Brazil: Notice of Final Determination of Sales at LTFV and Final Negative Circumstances*, 67 FR 55792 (August 30, 2002)).

In order to ensure that the margin is sufficiently adverse so as to induce cooperation, the Department has preliminarily assigned the highest NV for any single matching control number ("CONNUM") from the three producers at issue in this review, Lian Li, Sentian, and MPF, to all subject merchandise produced by Sentian and MPF. This is

consistent with the Department's practice in similar situations.<sup>14</sup> See also *PRC Lined Paper Investigation Final*. The Department finds that this adverse inference is sufficient to effectuate the purpose of the facts available rule (*i.e.*, we find that this is sufficient to encourage participation in future segments of this proceeding in accordance with section 776(b) of the Act).

After issuance of these preliminary results, however, the Department expects to issue an additional questionnaire to Lian Li to seek further clarification on certain information, including Sentian's and MPF's FOP data, which was submitted on the record in this proceeding.

#### *B. Application of Facts Otherwise Available for Certain of Lian Li's Own FOP Data*

In the U.S. sales database submitted by Lian Li dated April 11, 2008, with respect to its own production, the Department found several sales CONNUMs for which Lian Li did not report matching FOP CONNUMs in its FOP database. The Department believes that the missing FOP CONNUMs are attributable to a technical mis-coding problem caused partially by the Department's instructions to Lian Li to re-code certain products.<sup>15</sup> In its April 11, 2008, response, Lian Li re-coded its CONNUMs in its revised U.S. sales database but it did not recode the corresponding CONNUMs in its FOP database accordingly. Pursuant to section 776(a) of the Act, the Department has determined preliminarily to apply facts otherwise available to the missing FOP CONNUMs. For purposes of these preliminary results, as facts available, the Department determined FOPs for the re-coded sales based on FOPs for similar CONNUMs reported by Lian Li. See "Lian Li Preliminary Calculation Memo"<sup>16</sup> for further details.

<sup>14</sup> See *China Kingdom Import & Export Co., Ltd. v. United States*, Consol. Ct. No. 03–00302, Slip Op. 07–135 (CIT September 4, 2007) ("*China Kingdom*").

<sup>15</sup> Specifically, the Department found that in Lian Li's FOP database, Lian Li reported that binding type and cover material for various products are not consistently reported and may possibly be incorrectly reported. Therefore, in its fifth supplemental questionnaire, dated March 6, 2008, the Department instructed Lian Li to assign a CONNUM to each unique product reported in the section C sales database by specifying its product characteristics in Fields 3.1 through 3.8. See The Department's March 6, 2008, letter to Lian Li at 12–14 ("The Department's March 6, 2008, letter").

<sup>16</sup> See the Memorandum to file from Victoria Cho, titled "Calculation Memorandum, Shanghai Lian Li Paper Products Co. Ltd.; Preliminary Results of Antidumping Investigation of Certain Lined Paper

As stated above, the Department intends to issue an additional questionnaire to Lian Li to seek further clarification of certain information, including Lian Li's missing FOP CONNUMs, after issuance of these preliminary results.

### Corroboration of Information

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as FA. Secondary information is information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise. See SAA at 870; see also 19 CFR 351.308 (c) and (d). The SAA clarifies that "corroborate" means that the Department will satisfy itself that the "secondary information to be used has probative value." See *Id.* The SAA and the Department's regulations state that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation or review. See SAA at 870; 19 CFR 351.308 (d). To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used. See *Ferro Union, Inc. v. United States*, 44 F.Supp. 2d 1310 (CIT 1999); section 776 (c) of the Act.

As stated above, the Department calculated partial AFA based on information reported by the respondents, and did not rely on any secondary information. Therefore, corroboration is not necessary in this review in accordance with section 776(c) of the Act.

### Separate Rates

In the *Separate Rates Application and Separate Rates Certification Letter*,<sup>17</sup> the Department notified parties of the recent application process by which exporters and producers may obtain separate-rate status in an NME review. The process requires exporters and producers to submit a separate-rate status certification and/or application. See also *Policy Bulletin 05.1: Separate-*

*Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries*, (April 5, 2005) ("Policy Bulletin 05.1"), available at <<http://ia.ita.doc.gov>>. However, the standard for eligibility for a separate rate (which is whether a firm can demonstrate an absence of both *de jure* and *de facto* government control over its export activities) has not changed.

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. See *Policy Bulletin 05.1*. It is the Department's policy to assign all exporters of merchandise subject to investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. *Id.* Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* government control over export activities. *Id.* The Department analyzes each entity exporting the subject merchandise under a test arising from the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("*Sparklers*"), as further developed in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) ("*Silicon Carbide*"). However, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a separate-rate analysis is not necessary to determine whether it is independent from government control. See e.g., *Final results of Antidumping Administrative Review: Petroleum Wax Candles from the PRC*, 72 FR 52355 (September 13, 2007).

#### A. Separate Rate Recipients

##### 1. Wholly Foreign-Owned

The three companies not selected for individual examination in this review (H.F. Plastics/L.T. Plastics; Denmax/Leo's Products; and the Watanabe Group) reported in their separate-rate applications (collectively "Foreign-owned SR Applicants") that they are wholly owned by individuals or companies located in a market economy. Therefore, because they are wholly foreign-owned, and we have no evidence indicating that they are under the control of the PRC, a separate-rate analysis is not necessary to determine whether these companies are

independent from government control. See *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China*, 64 FR 71104-05 (December 20, 1999) (where the respondent was wholly foreign-owned and, thus, qualified for a separate rate). Accordingly, we have preliminarily granted a separate rate to these companies.

##### 2. Joint Wholly Chinese-Owned Companies

Lian Li, the mandatory respondent in this review, stated that it is a wholly Chinese-owned company. Therefore, the Department must analyze whether this respondent can demonstrate the absence of both *de jure* and *de facto* government control over its export activities.

##### a. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. See *Sparklers*, 56 FR at 20589. The evidence provided by Lian Li supports a preliminary finding of *de jure* absence of government control based on the following: (1) an absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies; and (3) there are formal measures by the government decentralizing control of companies. See Lian Li's letter to the Department entitled, "Lined Paper Products from China; Section A Response of Shanghai Lian Li Paper Products Co., Ltd.," dated December 13, 2007, at Exhibit 1.

##### b. Absence of De Facto Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes

from People's Republic of China," dated September 29, 2008 ("Lian Li Preliminary Calculation Memo").

<sup>17</sup> See The Department's letter to interested parties entitled, "Certain Lined Paper Products from People's Republic of China: Separate Rates Application and Separate Rates Certification," dated November 20, 2007 ("*Separate Rates Application and Separate Rates Certification Letter*").

independent decisions regarding disposition of profits or financing of losses. See *Silicon Carbide*, 59 FR at 22586–87; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995). The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates. The evidence provided by Lian Li supports a preliminary finding of *de facto* absence of government control based on the following: (1) Lian Li sets its own export prices independent of the government and without the approval of a government authority; (2) Lian Li has authority to negotiate and sign contracts and other agreements; (3) Lian Li has autonomy from the government in making decisions regarding the selection of management; and (4) there is no restriction on any of Lian Li's use of export revenue. See Lian Li's letter to the Department entitled, "Lined Paper Products from China; Section A Response of Shanghai Lian Li Paper Products Co., Ltd.," dated December 13, 2007, at Exhibit 1.

Therefore, the Department preliminarily finds that Lian Li has established that it qualifies for a separate rate under the criteria established by *Silicon Carbide* and *Sparklers*.

#### Separate Rate Calculation

This review covers four exporters. As stated previously, the Department selected one exporter, Lian Li, as a mandatory respondent in this review. The remaining three companies (H.F. Plastics/L.T. Plastics; Denmax/Leo's Products; and the Watanabe Group) submitted timely information as requested by the Department and remain subject to this review as cooperative separate-rate respondents.

For the exporters subject to this review that were determined to be eligible for separate-rate status, but were not selected as mandatory respondents ("Separate-Rate Recipients"), the Department normally establishes a weighted-average margin based on an average of the rates it calculated for the mandatory respondents, excluding any rates that are zero, *de minimis*, or based entirely on AFA.<sup>18</sup> In this proceeding, there is only one mandatory respondent. Accordingly, for these preliminary

results, the rate calculated for Lian Li is applied as the rate for non-selected separate entities. That rate is 217.23 percent. Entities receiving this rate are identified by name in the "Preliminary Results of Review" section of this notice.

#### Date of Sale

Lian Li reported the invoice date as the date of sale because it claims that, for its U.S. sales of subject merchandise made during the POR, the material terms of sale were established on the invoice date. We have preliminarily determined that the invoice date is the most appropriate date to use as Lian Li's date of sale in accordance with 19 CFR 351.401(i) and the Department's long-standing practice of determining the date of sale.<sup>19</sup>

#### Normal Value Comparisons

To determine whether sales of lined paper products to the United States by Lian Li were made at less than NV, we compared export price ("EP") to NV, as described in the "Export Price," and "Normal Value" sections of this notice, pursuant to section 771(35) of the Act.

#### Export Price

We based U.S. price for Lian Li on EP in accordance with section 772(a) of the Act, because the first sale to an unaffiliated purchaser was made prior to importation, and constructed export price was not otherwise warranted by the facts on the record. We calculated EP based on the packed price from the exporter to the first unaffiliated customer in the United States. We deducted foreign inland freight from the starting price (gross unit price), in accordance with section 772(c) of the Act.

Lian Li incurred foreign inland freight expenses from PRC service providers. We therefore valued these services using Indian surrogate values (see "Factors of Production" section below for further discussion).

#### Normal Value

Section 773(c)(1) of the Act provides that, in the case of an NME, the Department shall determine NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or

<sup>18</sup> See *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10.

constructed value under section 773(a) of the Act.

The Department will base NV on FOPs because the presence of government controls on various aspects of NME economies renders price comparisons and the calculation of production costs invalid under our normal methodologies. Therefore, we calculated NV based on FOPs in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c). The FOPs include: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. We used the FOPs reported by respondents for materials, energy, labor, by-products, and packing, with the exception of subject merchandise produced by Sentian and MPF, as noted above.

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to value the FOPs, but when a producer sources an input from a market-economy country and pays for it in market-economy currency, the Department may value the factor using the actual price paid for the input.<sup>20</sup> Lian Li reported that it did not purchase any inputs from market-economy suppliers for the production of the subject merchandise. See Lian Li's January 10, 2008, questionnaire response at 4.

With regard to both the Indian import-based surrogate values and the market-economy input values, we have disregarded prices that we have reason to believe or suspect may be subsidized.<sup>21</sup> We have reason to believe or suspect that prices of inputs from India, Indonesia, South Korea, and Thailand may have been subsidized. We have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized. We are also guided by the statute's

<sup>20</sup> See *Lasko Metal Products v. United States*, 43 F.3d 1442, 1445–1446 (Fed. Cir. 1994) (affirming the Department's use of market-based prices to value certain FOPs).

<sup>21</sup> See *Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Notice of Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 54007, 54011 (September 13, 2005) (unchanged in the final results); *Automotive Replacement Glass Windshields From the People's Republic of China: Final Results of Administrative Review*, 69 FR 61790 (October 21, 2004), and accompanying Issues and Decision Memorandum at Comment 5, and *China National Machinery Import & Export Corporation v. United States*, 293 F. Supp. 2d 1334 (CIT 2003), as affirmed by the Federal Circuit, 104 Fed. Appx. 183 (Fed. Cir. 2004).

<sup>18</sup> See *PRC Wooden Bedroom Furniture*.

legislative history that explains that it is not necessary to conduct a formal investigation to ensure that such prices are not subsidized. *See* H.R. Rep. 100–576 at 590 (1988). Rather, the Department was instructed by Congress to base its decision on information that is available to it at the time it is making its determination. *Id.* Therefore, we have not used prices from these countries in calculating the Indian import-based surrogate values.

#### Factor Valuations

In accordance with section 773(c) of the Act, for subject merchandise produced by Lian Li, we calculated NV based on the FOPs reported by Lian Li for the POR. To calculate NV, we multiplied the reported per-unit factor quantities by publicly available Indian surrogate values (except as noted below). In selecting the surrogate values, the Department considers the quality, specificity, and contemporaneity of the data. *See, e.g., PRC Lined Paper Investigation Final* and accompanying Issues and Decision Memorandum at Comment 3.

As appropriate, we adjusted input prices by including freight costs to render them delivered prices. Specifically, we added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the decision of the Federal Circuit in *Sigma Corp. v. United States*, 117 F. 3d 1401, 1408 (Fed. Cir. 1997). For a detailed description of all surrogate values used for Lian Li, *see* the Surrogate Value Memorandum.

Except as noted below, we valued raw material inputs using the surrogate values denominated in Indian rupees (“Rs”) using the Indian Wholesale Price Index (“WPI”) from the *RBI Handbook of Statistics on Indian Economy* as published on the Reserve Bank of India website. *See* [www.rbi.org.in](http://www.rbi.org.in), a printout of which is attached to the Surrogate Value Memorandum. We applied a surrogate value using Indian import prices for the POI reported in the *Monthly Statistics of the Foreign Trade of India*, as published by the Directorate General of Commercial Intelligence and Statistics of the Ministry of Commerce and Industry, Government of India, and available from World Trade Atlas (“WTA”).<sup>22</sup> We excluded from our calculations any imports from NME countries, imports from unspecified countries, and imports from countries

which the Department has determined maintain non-specific export subsidies (*i.e.*, Indonesia, South Korea, and Thailand). Where necessary we adjusted surrogate values for inflation, exchange rates, and taxes, and we converted all applicable items to a per-kilogram (“Kg”) basis.

To value electricity, we valued electricity rates using the WPI in the India Source: Reserve Bank of India Bulletin Electricity Source, Table 178, of the Handbook of Statistics on the Indian Economy under the All Commodities Source. We adjusted the value to reflect inflation using the “Fuel, Power, Light and Lubricants” inflation index published in the Table 178, a copy of which is attached to the Surrogate Value Memorandum.

To value water, we used the revised Maharashtra Industrial Development Corporation water rates for June 1, 2003 for the Mumbai region, available at <http://www.midindia.com/water> supply, adjusted for inflation. *See* Surrogate Value Memorandum.

For direct labor, indirect labor and packing labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression-based wage rate as reported on Import Administration’s web site. Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by each respondent. *See* Surrogate Value Memorandum at 8.

For factory overhead, selling, general, and administrative expenses (“SG&A”), Lian Li submitted financial information for the year-ended March 31, 2007, for one Indian producer of comparable merchandise: Sundaram Multi Pap Ltd. (“Sundaram”), a producer of comparable merchandise.

Pursuant to 19 CFR 351.408(c)(3), we preliminarily determine that Sundaram’s financial statement is the best available information with which to calculate financial ratios, because it is complete, publicly available, and contemporaneous with the POR. Therefore, we used the financial statements to value factory overhead, SG&A, and profit, for these preliminary results.

For packing materials, we used the per-kilogram values obtained from the WTA and made adjustments to account for freight costs incurred between the PRC suppliers plant. *See* Surrogate Value Memorandum.

#### Currency Conversion

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the

exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

#### Preliminary Results of Review

We preliminarily determine that the following weighted-average dumping margin exists: The weighted-average dumping margins are as follows:

Exporter	Weighted-Average Margin
Shanghai Lian Li Paper Products Co., Ltd. ....	217.23
Hwa Fuh Plastics Co., Ltd./Li Teng Plastics (Shenzhen) Co., Ltd. ....	217.23
Leo’s Quality Products Co., Ltd./Denmax Plastic Stationery Factory .....	217.23
The Watanabe Group (consisting of the following companies). Watanabe Paper Product (Shanghai) Co., Ltd. ....	217.23
Watanabe Paper Product (Linqing) Co., Ltd.. Hotrock Stationery (Shenzhen) Co., Ltd..	

#### Disclosure and Public Hearing

The Department will disclose to parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice. *See* 19 CFR 351.224(b). Because, as discussed above, we intend to seek additional information, we will establish the briefing schedule at a later time, and will notify parties of the schedule in accordance with 19 CFR 351.309. Parties who submit case briefs or rebuttal briefs in this proceeding 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. *See* 19 CFR 351.309(c)(2).

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room 1117, within 30 days of the date of 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 issues to be discussed. *Id.* Issues raised in the hearing will be limited to those raised in the respective case briefs. The Department will issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of

<sup>22</sup> *See* <http://www.gtis.com/wta.htm>.



publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

#### Assessment Rates

Pursuant to 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate assessment instructions directly to CBP 15 days after the publication of the final results of this review. For assessment purposes, where possible, we calculated importer-specific assessment rates for certain lined paper products from the PRC via *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. 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*. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of these reviews and for future deposits of estimated duties, where applicable.

The Department clarified its "automatic assessment" regulation on May 6, 2003. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*). This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (e.g., a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the "PRC-wide" rate if there is no rate for the intermediary involved in the transaction. See *Assessment Policy Notice* for a full discussion of this clarification.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for the exporters listed above, the cash deposit rate will be established in the final results of this review (except, if the rate is zero or *de minimis*, i.e., less than 0.5 percent, no cash deposit will be

required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 258.21 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

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

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

Dated: September 29, 2008.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E8-23713 Filed 10-6-08; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-533-843]

#### Certain Lined Paper Products From India: Preliminary Results of the First Antidumping Duty Administrative Review

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

**SUMMARY:** The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain lined paper products from India with respect to 20 companies. The respondents which the Department selected for individual examination are Kejriwal Paper Limited ("Kejriwal") and Ria

ImpEx Pvt. Ltd. ("Ria").<sup>1</sup> The respondents which were not selected for individual examination are listed in the "Preliminary Results of Review" section of this notice. This is the first administrative review of this order. The period of review (POR) is April 17, 2006, through August 31, 2007.

We preliminarily determine that sales made by Kejriwal have not been made at below normal value ("NV"). Because Ria is a selected mandatory respondent and was not responsive to the Department's requests for information, we have preliminarily assigned to Ria a margin based on adverse facts available ("AFA"). In addition, based on the preliminary results for the respondents selected for individual examination, we have preliminarily determined a weighted-average margin for those companies that are subject to review but not selected for individual examination. See the "Non-Selected Rate" section below for details. If the preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on all appropriate entries. Interested parties are invited to comment on the preliminary results.

**DATES: Effective Date:** October 7, 2008.

#### FOR FURTHER INFORMATION CONTACT:

Cindy Lai Robinson or George McMahon, AD/CVD Operations, Office 3, Import Administration-Room 1117, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3797 or (202) 482-1167, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On September 28, 2006, the Department published in the **Federal Register** an antidumping duty order on certain lined paper products from India. See *Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and*

<sup>1</sup> See Memorandum to Melissa Skinner, Director, Office 3, AD/CVD Operations, through James Terpstra, Program Manager, from George McMahon, Case Analyst, Regarding *Antidumping Duty Administrative Review of Certain Lined Paper Products from India—Selection of Respondents for Individual Review*, dated November 13, 2007 ("Respondent Selection Memo").