

DEPARTMENT OF COMMERCE

International Trade Administration

A-570-916

Laminated Woven Sacks from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Partial Affirmative Determination of Critical Circumstances, and Postponement of Final Determination

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

EFFECTIVE DATE: (Insert date of publication in the Federal Register.)

SUMMARY: We preliminarily determine that laminated woven sacks from the People's Republic of China ("PRC") are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Preliminary Determination" section of this notice. We will make our final determination within 135 days after the publication of this preliminary determination.

FOR FURTHER INFORMATION CONTACT: Catherine Bertrand or Javier Barrientos, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: 202-482-3207 or 202-482-2243, respectively.

SUPPLEMENTAL INFORMATION:

Initiation

On June 28, 2007, the Department of Commerce ("Department") received a petition on

imports of laminated woven sacks from the PRC from the Laminated Woven Sacks Committee and its individual members, Bancroft Bags, Inc., Coating Excellence International, LLC, Hood Packaging Corporation, Mid-America Packaging, LLC, and Polytex Fibers Corporation (collectively, “Petitioners”). This investigation was initiated on July 18, 2007. See Laminated Woven Sacks from the People's Republic of China: Initiation of Antidumping Duty Investigation, 72 FR 40833 (July 25, 2007) (“Initiation Notice”). On August 14, 2007, the United States International Trade Commission (“ITC”) issued its affirmative preliminary determination that there is a reasonable indication that the establishment of an industry in the United States is materially retarded by reason of imports from the PRC of laminated woven sacks. The ITC’s determination was published in the Federal Register on August 17, 2007. See, Laminated Woven Sacks From China, 72 FR 46246 (August 17, 2007) (“ITC Preliminary Determination”).

Scope Comments

In accordance with the preamble to our regulations, we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the Initiation Notice. On August 7, 2007, Petitioners provided comments to the scope and requested that the Department include their suggested revisions and additions into the language of the scope. No other party provided scope comments or commented on Petitioners’ August 7, 2007, submission. The Department has analyzed the comments received and has preliminarily determined to amend the scope from the Initiation Notice. We will afford interested parties an opportunity to provide comments on our preliminary finding on this issue in their case and rebuttal briefs, and, if any are provided, we will address these comments in our final determination.

Respondent Selection

On July 19, 2007, the Department sent a letter requesting quantity and value (“Q&V”) information to the China Bureau of Fair Trade for Imports & Exports (“BOFT”) of the Ministry of Commerce (“MOFCOM”) requesting that BOFT transmit the letter to all companies who manufacture and export subject merchandise to the United States, or produce the subject merchandise for the companies who were engaged in exporting the subject merchandise to the United States during the period of investigation (“POI”). The Department did not receive any type of communication from BOFT regarding its request for Q&V information. Also on July 19, 2007, we requested Q&V information from 41 potential exporters or producers of laminated woven sacks from the PRC. The Department received Q&V responses from 16 producers and/or exporters that exported subject merchandise to the United States during the POI.

On August 16, 2007, the Department selected two mandatory respondents, Shandong Shouguang Jianyuanchun Co., Ltd. (“SSJ”), and Zibo Aifudi Plastic Packaging Co., Ltd. (“Aifudi”), which were two exporters, of those companies that responded to the Department’s request for Q&V information, that accounted for the largest volume measured by total pieces of subject merchandise shipped to the United States during the POI. See Memorandum to Gary Taverman, Acting Deputy Assistant Secretary, from Catherine Bertrand, Senior International Trade Analyst: Selection of Respondents for the Antidumping Duty Investigation of Laminated Woven Sacks from the People’s Republic of China, dated August 16, 2007.

Separate Rates Applications

We received fifteen separate-rate applications by the due date of September 17, 2007. However on September 27, 2007, we rejected two of these applications for filing deficiencies. The

rejected applications were from The Seventh Plastic Factory of Danyang City and Jiangmen Jing Long Plastic Packing Co/Jiangmen Xinhui Sanjiang Plastic. We gave these two companies a deadline of October 11, 2007, to re-submit a corrected application. We did not receive an application from either company by the new deadline, and therefore we do not consider these two companies to be separate rate applicants. We also sent supplemental questionnaires to Jiangsu Hotson Plastics Co. Ltd., Shandong Qilu Plastic Fabric Group Stock Co., Ltd., Zibo Linzi Luitong Plastic Fabric Co. Ltd., Zibo Linzi Qitianli Plastic Fabric Co., Ltd., Zibo Linzi Worun Packing Product Co., Ltd., and, Zibo Qigao Plastic Cement Co. Ltd., and we received timely responses from all of these companies.

Product Characteristics & Questionnaires

On August 17, 2007, the Department received comments from Petitioners on product characteristics to be used in the designation of control numbers (“CONNUMs”) to be assigned to the subject merchandise. On August 17, 2007, the Department issued its sections A, C, D, and E, questionnaire to the two mandatory respondents, SSJ and Aifudi. After receiving responses to the questionnaire from both companies, the Department issued supplemental questionnaires to both companies and received timely responses. Petitioners submitted deficiency comments throughout the investigation for both companies.

Surrogate Country

On October 15, 2007, the Department determined that India, Sri Lanka, Egypt, Indonesia, and Philippines are countries comparable to the PRC in terms of economic development. See Memorandum from Ron Lorentzen, Director, Office of Policy, to Alex Villanueva, Program Manager, China/NME Group, Office 9: Antidumping Duty Investigation of Laminated Woven

Sacks from the People’s Republic of China: Request for a List of Surrogate Countries, dated October 15, 2007.

On October 15, 2007, the Department requested comments on the surrogate country selection from the interested parties in this investigation. Petitioners submitted surrogate country comments on October 31, 2007. No other interested parties commented on the selection of a surrogate country. For a detailed discussion of the selection of the surrogate country, see the “Surrogate Country” section below.

Surrogate Value Comments

On December 19, 2007, Petitioners, SSJ, and Aifudi, submitted comments on surrogate information with which to value the factors of production in this proceeding. On January 2, 2008, Petitioners, SSJ, and Aifudi filed rebuttal comments on the surrogate information. Also, on January 2, 2008, SSJ submitted additional surrogate value information.

Critical Circumstances

On November 2, 2007, Petitioners alleged that there is a reasonable basis to believe or suspect critical circumstances exist with respect to the antidumping investigation of laminated woven sacks from the PRC. On November 9, 2007, the Department issued questionnaires requesting data for monthly exports to the United States from January 2005 through October 2007 from SSJ and Aifudi, and received timely responses. For a detailed discussion, please see the “Critical Circumstances” section below.

Postponement of Preliminary Determination

On November 9, 2007, Petitioners made a timely request, pursuant to 19 CFR 351.205(e), for a 50-day postponement of the preliminary determination in this investigation,

pursuant to section 733(c)(1)(A) of the Act. The Department extended the preliminary determination by 50 days. See Postponement of Preliminary Determination of Antidumping Duty Investigation: Laminated Woven Sacks From the People's Republic of China, 72 FR 65706 (November 23, 2007).

Postponement of Final Determination

On January 11, 2008, Aifudi requested that, in the event of an affirmative preliminary determination in this investigation, the Department: (1) postpone its final determination by 60 days in accordance with 19 CFR 351.210(2)(ii) and 735(a)(2)(A) of the Act; and (2) extend the application of the provisional measures prescribed under 19 CFR 351.210(e)(2) from a 4-month period to a 6-month period.

PERIOD OF INVESTIGATION

The POI is October 1, 2006, through March 31, 2007. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition. See 19 CFR §351.204(b)(1).

SCOPE OF INVESTIGATION

The merchandise covered by this investigation is laminated woven sacks. Laminated woven sacks are bags or sacks consisting of one or more plies of fabric consisting of woven polypropylene strip and/or woven polyethylene strip, regardless of the width of the strip; with or without an extrusion coating of polypropylene and/or polyethylene on one or both sides of the fabric; laminated by any method either to an exterior ply of plastic film such as biaxially-oriented polypropylene (“BOPP”) or to an exterior ply of paper that is suitable for high quality print

graphics;¹ printed with three colors or more in register; with or without lining; whether or not closed on one end; whether or not in roll form (including sheets, lay-flat tubing, and sleeves); with or without handles; with or without special closing features; not exceeding one kilogram in weight. Laminated woven sacks are typically used for retail packaging of consumer goods such as pet foods and bird seed.

Effective July 1, 2007, laminated woven sacks are classifiable under Harmonized Tariff Schedule of the United States (“HTSUS”) subheadings 6305.33.0050 and 6305.33.0080.

Laminated woven sacks were previously classifiable under HTSUS subheading 6305.33.0020. If entered with plastic coating on both sides of the fabric consisting of woven polypropylene strip and/or woven polyethylene strip, laminated woven sacks may be classifiable under HTSUS subheadings 3923.21.0080, 3923.21.0095, and 3923.29.0000. If entered not closed on one end or in roll form (including sheets, lay-flat tubing, and sleeves), laminated woven sacks may be classifiable under other HTSUS subheadings including 3917.39.0050, 3921.90.1100, 3921.90.1500, and 5903.90.2500. If the polypropylene strips and/or polyethylene strips making up the fabric measures more than 5 millimeters in width, laminated woven sacks may be classifiable under other HTSUS subheadings including 4601.99.0500, 4601.99.9000, and 4602.90.000.

Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

NON-MARKET-ECONOMY COUNTRY TREATMENT

For purposes of initiation, Petitioners submitted LTFV analyses for the PRC as a non-

¹“Paper suitable for high quality print graphics,” as used herein, means paper having an ISO brightness of 82 or higher and a Sheffield Smoothness of 250 or less. Coated free sheet is an example of a paper suitable for high quality print graphics.

market economy (“NME”). See Initiation Notice, 72 FR at 40835. The Department considers the PRC to be an NME country. See, e.g., Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China, 72 FR 30758, 30760 (June 4, 2007), unchanged in Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China, 72 FR 60632 (October 25, 2007). In accordance with 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. No party has challenged the designation of the PRC as an NME country in this investigation. Therefore, we continue to treat the PRC as an NME country for purposes of this preliminary determination.

SURROGATE COUNTRY SELECTION

When the Department is investigating imports from an NME, section 773(c)(1) of the Act directs it to base normal value, in most circumstances, on the NME producer’s factors of production valued in a surrogate market-economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the factors of production, the Department shall utilize, to the extent possible, the prices or costs of factors of production in one or more market-economy countries that are at a level of economic development comparable to that of the NME country and are significant producers of comparable merchandise. The sources of the surrogate values we have used in this investigation are discussed under the normal value section below.

We find that India, Sri Lanka, Egypt, Indonesia, and Philippines are all at an economic level of development equally comparable to that of the PRC. Based on the data provided by

Petitioners, we recognize that India is a producer of comparable merchandise. See Petitioners' Surrogate Country Letter at 2. Petitioners provided a list of Indian laminated woven sacks producers. See id. at Exhibit 2. Additionally, the Department obtained worldwide export data for laminated woven sacks. Because the Department was unable to find production data, we are relying on export data as a substitute for overall production data in this case. Although India and Indonesia appear to both be significant producers of comparable merchandise, no party in this proceeding requested that Indonesia be selected as the surrogate country. Furthermore, Petitioners and both mandatory respondents submitted recommended surrogate values using Indian sources, suggesting greater availability of appropriate surrogate value data in India rather than Indonesia.

As noted above, the Department only received surrogate country comments from the Petitioners stating that the appropriate surrogate country is India, and the two mandatory respondents submitted suggested surrogate values from India. The Department is preliminarily selecting India as the surrogate country on the basis that: (1) it is at a similar level of economic development pursuant to 733(c)(4) of the Act; (2) it is a significant producer of comparable merchandise; and (3) we have reliable data from India that we can use to value the factors of production. Thus, we have calculated normal value using Indian prices when available and appropriate to value SSJ and Aifudi's factors of production. See Memorandum to the File from Javier Barrientos, through Alex Villanueva, Program Manager, AD/CVD Operations, Office 9, and James C. Doyle, Director, AD/CVD Operations, Office 9: Laminated Woven Sacks from the People's Republic of China: Surrogate Values for the Preliminary Determination, dated January 24, 2008 ("Surrogate Value Memorandum").

In accordance with 19 CFR 351.301(c)(3)(i), for the final determination in an antidumping

investigation, interested parties may submit publicly available information to value the factors of production within 40 days after the date of publication of the preliminary determination.²

AFFILIATIONS

We preliminarily find SSJ and Shandong Longxing Plastic Pack Co., Ltd. ("Longxing") to be affiliated parties within the meaning of section 771(33)(E) and (F) of the Act, based on ownership and common control. See SSJ's October 26, 2007, supplemental response at Exhibits SA-6, SA-8A, and SA-8b. Furthermore, we find that they should be considered as a single entity for purposes of this investigation. See 19 CFR 351.401(f). In addition to being affiliated, they have production facilities for similar or identical products that would not require substantial re-tooling in order to restructure manufacturing priorities and there is a significant potential for manipulation of production based on the level of common ownership and control, shared management, and an intertwining of business operations. See 19 CFR 351.401(f)(1) and (2); SSJ's October 26, 2007, supplemental response at pages SA-4, and SA-6-SA-8. For a detailed discussion of this issue, please see the proprietary Memorandum to James C. Doyle, Director, AD/CVD Operations, Office 9, from Catherine Bertrand, Senior Case Analyst, AD/CVD Operations, Office 9: Affiliation and Single Entity status of Shandong Shouguang Jianyuanchun Co., Ltd., and Shandong Longxing Plastic Pack Co., Ltd., in the Preliminary

² In accordance with 19 CFR 351.301(c)(1), for the final determination of this investigation, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. The Department generally cannot accept the submission of additional, previously absent-from-the-record alternative surrogate value information pursuant to 19 CFR 351.301(c)(1). See Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part, 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum at Comment 2.

Determination in the Antidumping Duty Investigation of Laminated Woven Sacks from the People's Republic of China, dated January 24, 2008.

Because the Department finds SSJ and Longxing to be a single entity, the Department is utilizing the integrated FOP database SSJ provided for purposes of the preliminary determination which includes the factors of production from Longxing and SSJ. Additionally, the Department plans to further investigate whether any other entities are affiliated with SSJ or Longxing.

SEPARATE RATES

In the Initiation Notice, the Department notified parties of the application process by which exporters and producers may obtain separate-rate status in NME investigations. See Initiation Notice. The process requires exporters and producers to submit a separate-rate status 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>.³ 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 governmental control over its export activities) has not changed.

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a

³ The Policy Bulletin 05.1, states: “{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of ‘combination rates’ because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.” See Policy Bulletin 05.1 (emphasis in original) at 6.

single antidumping duty rate. 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. As discussed below, SSJ and Aifudi, and all but one of the companies that submitted a separate rate application, have provided company-specific information to demonstrate that they operate independently of de jure and de facto government control, and therefore satisfy the standards for the assignment of a separate rate.

We have considered whether each PRC company that submitted a complete application is eligible for a separate rate. We note that because we rejected the applications filed by The Seventh Plastic Factory of Danyang City and Jiangmen Jing Long Plastic Packing Co/Jiangmen Xinhui Sanjiang Plastic and because these companies did not re-file an application as instructed, they do not qualify for a separate rate.

The Department's separate-rate test is not concerned, in general, with macroeconomic/border-type controls, e.g., export licenses, quotas, and minimum export prices, particularly if these controls are imposed to prevent dumping. See Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China, 63 FR 72255, 72256 (December 31, 1998). The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. See Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value, 62 FR 61754, 61758 (November 19, 1997), and Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China; Final Results of Antidumping Administrative Review, 62 FR 61276, 61279 (November 17, 1997).

To establish whether a firm is sufficiently independent from government control of its

export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the 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 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”). In accordance with the separate-rates criteria, the Department assigns separate rates in NME cases only if respondents can demonstrate the absence of both de jure and de facto governmental control over export activities. Additionally, 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.

Wholly Foreign-owned Applicant

In its separate-rate application, Polywell Industrial Co. (also known as Firstway (H.K.) Limited) (“Polywell”) reported that it is wholly foreign-owned. Polywell explained that it is a limited liability company incorporated in Hong Kong and its ultimate owners are citizens of a market-economy country. Therefore, because there is no PRC ownership of Polywell and because it is wholly foreign-owned, and we have no evidence indicating that it is under the control of the PRC, further separate rates analysis is not necessary to determine whether Polywell is 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, 71104 (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 Polywell.

Other Separate Rate Applicants

Certain separate rate applicants stated that they are either joint ventures between Chinese and foreign companies or are wholly Chinese-owned companies (“SR Applicants”). Therefore, the Department must analyze whether these respondents can demonstrate the absence of both de jure and de facto governmental control over export activities.

1. 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) other formal measures by the government decentralizing control of companies. See Sparklers, 56 FR at 20589.

The evidence provided by SSJ, Aifudi and the SR Applicants supports a preliminary finding of de jure absence of governmental control based on the following: 1) an absence of restrictive stipulations associated with the individual exporters’ 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.

2. Absence of De Facto Control

Typically the Department considers four factors in evaluating whether each respondent is subject to de facto governmental control of its export functions: (1) whether the export prices are set by or are subject to the approval of a governmental 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 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, 22544-45 (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 governmental control which would preclude the Department from assigning separate rates.

We determine that, for SSJ, Aifudi and all of the SR Applicants except Shandong Qilu Plastic Fabric Group Stock Co., Ltd. (“Qilu”), the evidence on the record supports a preliminary finding of de facto absence of governmental control based on record statements and supporting documentation showing the following: 1) each exporter sets its own export prices independent of the government and without the approval of a government authority; 2) each exporter retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; 3) each exporter has the authority to negotiate and sign contracts and other agreements; and 4) each exporter has autonomy from the government regarding the selection of management.

Therefore, the evidence placed on the record of this investigation by SSJ, Aifudi and the SR Applicants, with the exception of Qilu, demonstrate an absence of de jure and de facto government control with respect to each of the exporters' exports of the merchandise under investigation, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. As a result, for the purposes of this preliminary determination, we have granted a separate company-specific rate to SSJ and Aifudi. Additionally, we have granted all the SR Applicants, except Qilu

as explained below, a weighted-average margin, for the purposes of this preliminary determination. Finally, and as discussed previously, we granted Polywell a separate company-specific rate because it is wholly foreign-owned.

Companies Not Receiving a Separate Rate

The Department is not granting a separate rate to Qilu because it did not fully report all of its ultimate owners, and because its financial statements are unreliable. Qilu failed to report all of its ultimate owners, and without this information, the Department cannot conclude that Qilu operates independently of the government and without the approval of a government authority. Further, we determine that Qilu's financial statements are unreliable, and because the financial statements have a direct impact on determining whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses, which is one of the critical elements considered in the analysis of de facto control, we conclude that Qilu is not entitled to a separate rate. For a detailed discussion of this issue, please see the proprietary Memorandum to James C. Doyle, Director, AD/CVD Operations, Office 9, from Catherine Bertrand, Senior Case Analyst, AD/CVD Operations, Office 9: Separate Rate Memorandum in the Preliminary Determination in the Antidumping Duty Investigation of Laminated Woven Sacks from the People's Republic of China, dated January 24, 2008.

The PRC-Wide Entity

The Department has data that indicate there were more exporters of laminated woven sacks from the PRC than those indicated in the response to our request for Q&V information during the POI. See Respondent Selection Memorandum. We issued our request for Q&V information to 41

potential Chinese exporters of the subject merchandise, in addition to BOFT and MOFCOM.⁴ We received 16 Q&V responses filed by the deadline. See Respondent Selection Memorandum at 1. We did not receive Q&V responses from the remaining companies to which we sent our request for Q&V information. See *id.* Based upon our knowledge of the volume of imports of subject merchandise from the PRC, the companies which responded to the Q&V questionnaire, SSJ, Aifudi, and the companies that submitted separate rate applications do not account for all imports into the United States. Although all exporters were given an opportunity to provide Q&V information, not all exporters provided a response to the Department's Q&V letter. Further, the Government of the PRC did not respond to the Department's questionnaire. Therefore, the Department determines preliminarily that there were PRC exports of the subject merchandise during the POI from PRC producers/exporters that did not respond to the Department's request for information. We have treated these PRC producers/exporters as part of the PRC-wide entity because they did not qualify for a separate rate.

Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information that has been requested by the Department, (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act, (C) significantly impedes a proceeding under the antidumping statute, or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(i) of the Act, use facts otherwise available in reaching the applicable determination.

Information on the record of this investigation indicates that the PRC-wide entity was non-

⁴ For a list of companies to which the Department sent its request for Q&V information, see Respondent Selection Memorandum at Attachment 1.

responsive. Certain companies did not respond to our request for Q&V information and did not respond to the Department's questionnaire, and, as previously noted, the Government of the PRC did not respond. See Respondent Selection Memorandum at Attachment II for a full list of non-responsive companies. As a result, pursuant to section 776(a)(2)(A) of the Act, we find that the use of facts available is appropriate to determine the PRC-wide rate. See Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam, 68 FR 4986, 4991 (January 31, 2003), unchanged in Final Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam, 68 FR 37116 (June 23, 2003).

Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information. See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation, 65 FR 5510, 5518 (February 4, 2000); see also Uruguay Round Agreements Act Statement of Administrative Action H.R. Doc. No. 103-316, vol. 1, at 870 (1994) ("SAA"). We find that, because the PRC-wide entity did not respond to our request for information, it has failed to cooperate to the best of its ability. Therefore, the Department preliminarily finds that, in selecting from among the facts available, an adverse inference is appropriate.

Further, section 776(b) of the Act authorizes the Department to use as adverse facts available ("AFA") information derived from the petition, the final determination from the LTFV

investigation, a previous administrative review, or any other information placed on the record. In selecting a rate for adverse facts available, the Department selects a rate that 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.” Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan, 63 FR 8909, 8932 (February 23, 1998). It is the Department’s practice to select, as AFA, the higher of the (a) highest margin alleged in the petition, or (b) the highest calculated rate of any respondent in the investigation. See Final Determination of Sales at Less Than Fair Value: Certain Flat-Rolled Cold-Rolled Carbon Quality Steel Products from the People’s Republic of China, 65 FR 34660 (May 31, 2000) and accompanying Issues and Decision Memorandum, at “Facts Available.”

In the instant investigation, as AFA, we have assigned to the PRC-wide entity a margin based on the highest calculated rate of the mandatory respondents, which in this case is Aifudi. Therefore, we are applying the highest calculated rate of the mandatory respondents which is 108.09 percent. Section 776(c) of the Act requires that, when the Department relies on secondary information rather than on information obtained in the course of an investigation as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal.⁵ Here, we are not using secondary information as the basis of the PRC-wide rate, and therefore, corroboration is not necessary.

Consequently, we are applying 108.09 percent as the single antidumping rate to the PRC-

⁵ Secondary information is described in the SAA as “information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise.” See SAA at 870.

wide entity. The PRC-wide rate applies to all entries of the merchandise under investigation except for entries from SSJ, Aifudi, and the separate rate applicants receiving a separate rate.

Margin for the Separate Rate Applicants

The Department received timely and complete separate rate applications from the Separate Rate Applicants, who are all exporters of laminated woven sacks from the PRC, which were not selected as mandatory respondents in this investigation. Through the evidence in their applications, with the exception of Qilu, these companies have demonstrated their eligibility for a separate rate, as discussed above. Consistent with the Department's practice, as the separate rate, we have established a weighted-average margin for the Separate Rates Applicants based on the rates we calculated for SSJ and Aifudi, excluding any rates that are zero, *de minimis*, or based entirely on AFA. Companies receiving this rate are identified by name in the "Suspension of Liquidation" section of this notice.

DATE OF SALE | | | | | |

Section 351.401(i) of the Department's regulations states that, "in identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the normal course of business." However, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale. See 19 CFR 351.401(i); see also *Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-1093 (CIT 2001) ("Allied Tube"). The date of sale is generally the date on which the parties agree upon all substantive terms of the sale. This normally includes the price, quantity, delivery terms and payment terms. In order to simplify the determination of

date of sale for both the respondent and the Department and in accordance with 19 CFR 351.401(i), the date of sale will normally be the date of the invoice, as recorded in the exporter's or producer's records kept in the ordinary course of business, unless satisfactory evidence is presented that the exporter or producer establishes the material terms of sale on some other date. In *Allied Tube*, the Court of International Trade ("CIT") found that a "party seeking to establish a date of sale other than invoice date bears the burden of producing sufficient evidence to 'satisfy' the Department that a 'different date better reflects the date on which the exporter or producer establishes the material terms of sale.'" *Allied Tube* 132 F. Supp. 2d at 1090 (quoting 19 CFR 351.401(i)). In other words, the date of the invoice is the presumptive date of sale, although this presumption may be overcome. For instance, in Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Taiwan, 61 FR 14064, 14067 (March 29, 1996), the Department used the date of the purchase order as the date of sale because the terms of sale were established at that point.

After examining the questionnaire responses and the sales documentation that SSJ and Aifudi placed on the record, we preliminarily determine that invoice date is the most appropriate date of sale for all of SSJ's sales. For Aifudi's constructed export price ("CEP") sales where shipment date preceded invoice date, we used shipment date as the date of sale. For Aifudi's CEP sales where shipment date was the same as or after the invoice date, we used the invoice date as the date of sale. See Aifudi's December 11, 2007, supplemental Section C response at Exhibit S2-2. Aifudi did not have any EP sales.

FAIR VALUE COMPARISONS

To determine whether sales of laminated woven sacks to the United States by SSJ and

Aifudi were made at less than fair value, we compared the export price (“EP”) or CEP, as appropriate, to normal value (“NV”), as described in the “U.S. Price,” and “Normal Value” sections of this notice.

U.S. Price

A. EP

For SSJ, in accordance with section 772(a) of the Act, we based the U.S. price on EP because the first sale to an unaffiliated purchaser was made prior to importation, and the use of CEP was not otherwise warranted. In accordance with section 772(c) of the Act, we calculated EP by deducting, where applicable, foreign inland freight, foreign brokerage and handling, international freight, and rebates from the gross unit price.

We based these movement expenses on surrogate values where a PRC company provided the service and was paid in Renminbi (“RMB”) (see “Factors of Production” section below for further discussion). If market-economy service providers, who were paid in a market economy currency, provided movement services for over 33 percent of subject merchandise shipments, by volume, we based the movement expenses on the actual price charged by the service provider. If market-economy service providers, who were paid in a market economy currency, provided movement services for less than 33 percent of subject merchandise shipments, by volume, we calculated the movement expenses by weight-averaging surrogate values with the actual price charged by the service provider. See Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments, 71 FR 61716, 61717-18 (October 19, 2006) (“Notice for Antidumping Methodologies”). For details regarding our EP calculation, see Memorandum to the File from Catherine Bertrand, Senior Case

Analyst: Preliminary Analysis Memorandum for the Antidumping Duty Investigation of Laminated Woven Sacks from the People's Republic of China: SSJ, dated January 24, 2008 ("SSJ Analysis Memorandum").

B. CEP

In accordance with section 772(b) of the Act, for Aifudi's sales we based the U.S. price on CEP because the sale to the unaffiliated customer was made after importation. In accordance with section 772(c)(2)(A) of the Act, we calculated CEP by deducting, where applicable, the following expenses from the gross unit price charged to the first unaffiliated customer in the United States: marine insurance, discounts, rebates, inland freight from warehouse to the unaffiliated customer, other U.S. transportation expenses, U.S. customs duty, U.S. brokerage, credit expenses, advertising expenses, inventory carrying costs, billing adjustments, foreign movement expenses, and international freight. Further, in accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), where appropriate, we deducted from the starting price the following selling expenses associated with economic activities occurring in the United States: credit expenses, warranty expenses, other direct selling expenses, and indirect selling expenses. In addition, pursuant to section 772(d)(3) of the Act, we made an adjustment to the starting price for CEP profit. We based movement expenses on either surrogate values, actual expenses, or an average of the two as explained above in the "EP" section of this notice. For details regarding our CEP calculations, see Memorandum to the File from Javier Barrientos, Senior Case Analyst: Program Analysis for the Preliminary Determination of Antidumping Duty Investigation of Laminated Woven Sacks from the People's Republic of China: Aifudi, dated January 24, 2008 ("Aifudi's Analysis Memorandum").

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a factors-of-production (“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 constructed value under section 773(a) of the Act. The Department bases NV on the FOP because the presence of government controls on various aspects of non-market economies renders price comparisons and the calculation of production costs invalid under the Department’s normal methodologies.

Factor Valuation Methodology

In accordance with section 773(c) of the Act, we calculated NV based on FOP data reported by respondents for the POI. To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available surrogate values (except as discussed below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to the Indian 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 where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F. 3d 1401, 1407-1408 (Fed. Cir. 1997). A detailed description of all surrogate values used for respondents can be found in the Surrogate Value Memorandum and company-specific analysis memoranda.

Additionally, for detailed descriptions of all actual values used, see the company-specific analysis memoranda dated January 24, 2008. We also made an adjustment to the factors of

production for SSJ and Aifudi to account for the cost of the printing plates and engraving costs used in the production of laminated woven sacks. See SSJ's Analysis Memorandum and Aifudi's Analysis Memorandum. Further we were unable to take into account the January 16, 2008, supplemental responses of SSJ and Aifudi due to the close proximity to the preliminary determination. We will consider these submissions for the final determination.

For this preliminary determination, in accordance with the Department's practice, we used data from the Indian Import Statistics and other publicly available Indian sources in order to calculate surrogate values for the mandatory respondents' FOPs (direct materials, energy, and packing materials) and certain movement expenses. In selecting the best available information for valuing FOPs in accordance with section 773(c)(1) of the Act, the Department's practice is to select, to the extent practicable, surrogate values which are non-export average values, most contemporaneous with the POI, product-specific, and tax-exclusive. See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam, 69 FR 42672, 42682 (July 16, 2004), unchanged in Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam, 69 FR 71005 (December 8, 2004). The record shows that data in the Indian Import Statistics, as well as that from the other Indian sources, represent data that are contemporaneous with the POI, product-specific, and tax-exclusive. In those instances where we could not obtain publicly available information contemporaneous to the POI with which to value factors, we adjusted the surrogate values using, where appropriate, the Indian Wholesale Price Index ("WPI") as published in the International

Financial Statistics of the International Monetary Fund.

Furthermore, with regard to the Indian import-based surrogate values, we have disregarded import prices that we have reason to believe or suspect may be subsidized. We have reason to believe or suspect that prices of inputs from 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. See Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China, 69 FR 20594 (April 16, 2004) and accompanying Issues and Decision Memorandum at Comment 7. We are also instructed by the legislative history not to conduct a formal investigation to ensure that such prices are not subsidized. See Omnibus Trade and Competitiveness Act of 1988, Conference Report to Accompanying H.R. 3, H.R. Rep. 100-576 at 590 (1988). Rather, Congress directed the Department to base its decision on information that is available to it at the time it makes its determination. Therefore, we have not used prices from these countries either in calculating the Indian import-based surrogate values or in calculating market-economy input values. In instances where a market-economy input was obtained solely from suppliers located in these countries, we used Indian import-based surrogate values to value the input. See Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields From The People's Republic of China, 67 FR 6482 (February 12, 2002), and accompanying Issues and Decision Memorandum at Comment 1.

The Department used the Indian Import Statistics to value the raw material and packing

material inputs that SSJ and Aifudi reported were used to produce the subject merchandise during the POI, except where listed below. For direct, indirect, 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 home page, Import Library, Expected Wages of Selected NME Countries, revised in January 2007, <http://ia.ita.doc.gov/wages/index.html>. The source of these wage-rate data on the Import Administration's web site is the Yearbook of Labour Statistics 2002, ILO (Geneva: 2002), Chapter 5B: Wages in Manufacturing. 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 the respondent. See Surrogate Value Memorandum.

To value factory overhead, selling, general, and administrative expenses, and profit, we used the 2006-2007 audited financial statements of Mody Plastics Industries Ltd, an Indian producer of laminated woven sacks. For a detailed discussion of all surrogate values used for this preliminary determination, see Surrogate Values 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.

CRITICAL CIRCUMSTANCES

On November 2, 2007, Petitioners alleged that there is a reasonable basis to believe or suspect critical circumstances exist with respect to the antidumping investigation of laminated

woven sacks from the PRC. On November 16, 2007, and November 19, 2007,⁶ SSJ and Aifudi, respectively, submitted information on their exports of laminated woven sacks from January 2005 through October 2007 as requested by the Department (collectively, “mandatory respondents”) (see mandatory respondents’ December 16, 2007, and December 19, 2007, Critical Circumstances Questionnaire responses (“CCQR”)).⁷ In accordance with 19 C.F.R. § 351.206(c)(2)(i), because Petitioners submitted critical circumstances allegations more than 20 days before the scheduled date of the preliminary determination, the Department must issue preliminary critical circumstances determinations not later than the date of the preliminary determination.

Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist if there is a reasonable basis to believe or suspect that: (A)(i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise; or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and (B) there have been massive imports of the subject merchandise over a relatively short period. Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been “massive,” the Department normally will

⁶ A revision was submitted on November 21, 2007.

⁷ On November 19, 2007, the Department received monthly shipment data from Shandong Qilu Plastic Fabric Group Stock Co., Ltd (“Qilu”), a separate rate applicant in the instant investigation, even though the Department did not issue Qilu a request for information for monthly shipment data. Because the Department did not request/solicit information regarding monthly shipment data from Qilu, the Department rejected Qilu’s November 19, 2007, submission as unsolicited factual information pursuant to section 351.302(d)(1)(ii) of the Department's regulations. See Letter from Alex Villanueva, Program Manager IA, to Shandong Qilu Plastic Fabric Group Stock Co., Ltd, dated December 5, 2007.

examine: (i) the volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, section 351.206(h)(2) of the Department's regulations provides that an increase in imports of 15 percent during the “relatively short period” of time may be considered “massive.” Section 351.206(i) of the Department's regulations defines “relatively short period” as normally being the period beginning on the date the proceeding begins (i.e., the date the petition is filed) and ending at least three months later (i.e., the comparison period). The comparison period is normally compared to the three months prior to the filing of the petition (i.e., the base period). The regulations also provide, however, that if the Department finds that importers, exporters, or producers had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, the Department may establish the base and comparison periods based on the earlier date. See 19 CFR 351.206(i).

In determining whether the above statutory criteria have been satisfied, we examined: (1) the evidence presented in Petitioners' November 2, 2007, submission; (2) new evidence obtained since the initiation of the LTFV investigation (i.e., additional import statistics released by the U.S. Customs and Border Protection); and (3) additional information obtained from SSJ and Aifudi (see CCQR).

In accordance with section 733(e)(1)(A)(ii) of the Act, to determine whether importers of laminated woven sacks from the PRC knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales, the Department must rely on the facts before it at the time the determination is made. The Department generally bases its decision with respect to knowledge on the margins calculated in the preliminary antidumping duty determination and the ITC preliminary injury

determination.

The Department normally considers margins of 25 percent or more for export price EP sales and 15 percent or more for CEP sales sufficient to impute importer knowledge of sales at LTFV. See, e.g., Carbon and Alloy Steel Wire Rod From Germany, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Notice of Preliminary Determination of Critical Circumstances, 67 FR 6224, 6225 (February 11, 2002). In this preliminary determination, SSJ has a margin of 63.89 percent and Aifudi has a margin of 108.09 percent. The separate rate companies which have preliminarily received a separate rate have a margin of 87.60 percent, based on a weighted-average of the margins of the mandatory respondents. The PRC-wide entity has a margin of 108.09 percent. We find that the antidumping duty preliminary margins for Aifudi, SSJ, the separate rate companies, and the PRC-wide entity support a finding that there is a reasonable basis to believe or suspect that the importers knew or should have known that there was likely to be material injury by reason of sales at LTFV of laminated woven sacks from the PRC from these respondents.

In determining whether there is a reasonable basis to believe or suspect that an importer knew or should have known that there was likely to be material injury by reason of dumped imports, consistent with section 733(e)(1)(A)(ii) of the Act, the Department also looks to the preliminary injury determination of the ITC. See, e.g., Lemon Juice from Argentina: Preliminary Determination of Sales at Less than Fair Value and Affirmative Preliminary Determination of Critical Circumstances, 72 FR 20820, 20828 (April 26, 2007). On August 14, 2007, the ITC issued a preliminary affirmative determination for laminated woven sacks from the PRC. See ITC Preliminary Determination.

In accordance with section 733(e)(1)(B) of the Act, the Department must determine

whether there have been massive imports of the subject merchandise over a relatively short period. Pursuant to 19 CFR 351.206(h), we will not consider imports to be massive unless imports in the comparison period have increased by at least 15 percent over imports in the base period. As discussed above, the Department normally determines the comparison period for massive imports based on the filing date of the petition.

Based on the June 28, 2007, filing date, we have determined that July 2007 is the month in which importers, exporters or producers knew or should have known an antidumping duty investigation was likely. Additionally, we have used a period of four months as the period for comparison in preliminarily determining whether imports of the subject merchandise have been massive. We believe that a four-month period is most appropriate as the basis for analysis because using four months captures all data available at this time, based on July 2007 as the beginning of the comparison period. Additionally, a four-month period properly reflects the “relatively short period” set forth in the statute for determining whether imports have been massive. See section 733(e)(1)(B) of the Act and 19 CFR 351.206(i). It is our practice to base the critical circumstances analysis on all available data, using base and comparison periods of no less than three months. See Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from India, 69 FR 47111 (August 4, 2004) unchanged in (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 India, 69 FR 76916 (December 23, 2004); see also Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television

Receivers From the People's Republic of China, 69 FR 20594 (Apr. 16, 2004), and accompanying Issues and Decision Memorandum at Comment 3. Therefore, we have used all available data in our critical-circumstances analysis for the preliminary determination. Therefore, in applying the four-month period, we used a comparison period of March 2007 to June 2007, and a base period of July 2007 to October 2007.

Mandatory Respondents

The Department used the shipment data of Aifudi and SSJ to examine the relevant comparison period of four months before July 2007, i.e., March-June 2007, and four months following that period, i.e., July-October 2007. When we compared these companies' import data during the base period with the comparison period, Aifudi had an increased volume of exports over the base period of greater than 15 percent while SSJ did not and, consequently, we only find Aifudi's imports to be massive. See Memorandum to the File from Javier Barrientos, Senior Case Analyst: Critical Circumstances Data for the Preliminary Determination of Antidumping Duty Investigation of Laminated Woven Sacks from the People's Republic of China, dated January 24, 2008, at Attachment I ("CC MTF") for the exact percentage changes.

Separate Rate Companies

For the separate rate companies, we did not request the monthly shipment information necessary to determine if there were massive imports. As the basis to measure whether massive imports existed for purposes of critical circumstances, we relied on the experience of the mandatory respondents receiving a separate rate. When we compared the weight-averaged import data during the base period with the comparison period from the mandatory respondents, we found that the weight-averaged volume of imports of laminated woven sacks for the separate rate

companies did have an increased volume of exports over the base period of greater than 15 percent. Therefore, we find the imports of the separate rate companies to be massive. See CC MTF at Attachment I for the exact percentage changes.

PRC-wide Entity

Because the PRC-wide entity failed to respond to the Department's antidumping questionnaire, we were unable to obtain shipment data from the PRC-wide entity for purposes of our critical circumstances analysis, and there is no information on the record with respect to its export volumes. We relied on the ITC Dataweb site (<http://databweb.usitc.gov>) to determine whether there were imports of laminated woven sacks from the PRC during the base and the comparison periods not accounted for in the shipment data for the mandatory respondents. We found that there were such imports and we were able to rely on such data to quantify the imports attributed to the PRC-wide entity because the HTSUS article codes covering imported laminated woven sacks from the PRC contain data for subject merchandise, allowing us to segregate the mandatory respondents and separate rate companies' data from the PRC-wide import data.

We have deducted the mandatory respondents' data from the China-wide import data as to avoid possibly double-counting. When we compared the PRC entity import data during the adjusted base period with the adjusted comparison period, we found that the volume of imports of laminated woven sacks for the PRC-wide entity during the comparison period was not greater than 15 percent over the base period. The total import volume difference is -15.95 percent. See CC MTF at Attachment I. Consequently, we find that the PRC-wide entity did not have an increased volume of exports over the base period of greater than 15 percent, and therefore, we do not find their imports to be massive.

In addition, as a result of the ITC's affirmative preliminary determination in the instant LTFV investigation, the Department preliminarily finds there is a reasonable basis to believe or suspect that importers knew or should have known that there was likely to be material injury by reason of dumped imports, consistent with section 733(e)(1)(A)(ii) of the Act. See ITC Preliminary Determination. As discussed above, the volume of imports of laminated woven sacks from the PRC from Aifudi and the separate rate companies was massive within the meaning of section 733(e)(1)(B) of the Act. The volume of imports of laminated woven sacks from the PRC for SSJ and the PRC-wide entity, however, were each below 15 percent, and thus not massive within the meaning of section 733(e)(1)(B) of the Act. As a result, we preliminarily find that critical circumstances exist for Aifudi and the separate rate companies, but do not exist for imports of laminated woven sacks for SSJ and the PRC-wide entity.

We will make a final determination concerning critical circumstances for all producers/exporters of subject merchandise from the PRC when we make our final dumping determination in this investigation.

VERIFICATION

As provided in section 782(i)(1) of the Act, we intend to verify the information upon which we will rely in making our final determination.

COMBINATION RATES

In the Initiation Notice, the Department stated that it would calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. See Initiation Notice, 72 FR 40833, 40837. This change in practice is described in Policy Bulletin 05.1, available at <http://ia.ita.doc.gov/>.

PRELIMINARY DETERMINATION

The preliminary weighted-average dumping margins are as follows:

EXPORTER	PRODUCER	WEIGHT_AVERAGE MARGIN
SHANGDONG SHOUGUANG JIANYUANCHUN CO., LTD./SHANDONG LONGXING PLASTIC PACK CO. LTD.	SHANGDONG SHOUGUANG JIANYUANCHUN CO., LTD./SHANDONG LONGXING PLASTIC PACK CO. LTD.	63.89%
ZIBO AIFUDI PLASTIC PACKAGING CO., LTD.	ZIBO AIFUDI PLASTIC PACKAGING CO., LTD.	108.09%
POLYWELL INDUSTRIAL CO., a.k.a. FIRST WAY (H.K.) LIMITED	POLYWELL PLASTIC PRODUCT FACTORY	87.60%
ZIBO LINZI WORUN PACKING PRODUCT CO., LTD.	ZIBO LINZI WORUN PACKING PRODUCT CO., LTD.	87.60%
SHANDONG QIKAI PLASTICS PRODUCT CO., LTD.	SHANDONG QIKAI PLASTICS PRODUCT CO., LTD.	87.60%
CHANGLE BAODU PLASTIC CO. LTD.	CHANGLE BAODU PLASTIC CO. LTD.	87.60%
ZIBO LINZI SHUAIQIANG PLASTICS CO. LTD.	ZIBO LINZI SHUAIQIANG PLASTICS CO. LTD.	87.60%
ZIBO LINZI QITIANLI PLASTIC FABRIC CO. LTD.	ZIBO LINZI QITIANLI PLASTIC FABRIC CO. LTD.	87.60%
SHANDONG YOULIAN CO. LTD	SHANDONG YOULIAN CO. LTD	87.60%
ZIBO LINZI LUITONG PLASTIC FABRIC CO. LTD.	ZIBO LINZI LUITONG PLASTIC FABRIC CO. LTD.	87.60%
WENZHOU HOTSON PLASTICS CO. LTD	WENZHOU HOTSON PLASTICS CO. LTD	87.60%
JIANGSU HOTSON PLASTICS CO. LTD.	JIANGSU HOTSON PLASTICS CO. LTD.	87.60%
CANGNAN COLOR MAKE THE BAG	CANGNAN COLOR MAKE THE BAG	87.60%
ZIBO QIGAO PLASTIC CEMENT CO. LTD	ZIBO QIGAO PLASTIC CEMENT CO. LTD	87.60%
PRC-WIDE RATE		108.09%

DISCLOSURE

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

SUSPENSION OF LIQUIDATION

In accordance with section 733(d) of the Act, we will instruct U.S. Customs and Border Protection (“CBP”) to suspend liquidation of all entries of laminated woven sacks from the PRC as described in the “Scope of Investigation” section, entered, or withdrawn from warehouse, for consumption from SSJ and the PRC-wide entity on or after the date of publication of this notice in the Federal Register. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds U.S. price, as indicated above. For Aifudi, and the companies receiving a separate rate, we will direct CBP to suspend liquidation of any entries of laminated woven sacks from the PRC as described in the “Scope of Investigation” section, that are entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the date of publication in the Federal Register of our preliminary determination. The suspension of liquidation will remain in effect until further notice.

INTERNATIONAL TRADE COMMISSION NOTIFICATION

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination of sales at less than fair value. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of laminated woven sacks, or sales (or the likelihood of sales) for importation, of the subject merchandise within 45 days of our final determination.

PUBLIC COMMENT

Case briefs or other written comments may be submitted to the Assistant Secretary for

Import Administration no later than seven days after the date the final verification report is issued in this proceeding and rebuttal briefs limited to issues raised in case briefs no later than five days after the deadline date for case briefs. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes. Parties are also requested to submit an electronic version of their case and rebuttal briefs.

In accordance with section 774 of the Act, and if requested, we will hold a public hearing, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. If a request for a hearing is made, we intend to hold the hearing three days after the deadline of submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Ave, NW, Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

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, U.S. Department of Commerce, Room 1870, within 30 days after the date of publication of this notice. See 19 CFR 351.310(c). Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief and may make rebuttal presentations only on arguments included in that party's rebuttal brief.

POSTPONEMENT OF FINAL DETERMINATION AND EXTENSION OF PROVISIONAL MEASURES

Pursuant to section 735(a)(2) of the Act, on January 11, 2008, Aifudi requested that in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days. At the same time, Aifudi requested that the Department extend the application of the provisional measures prescribed under 19 CFR 351.210(e)(2) from a four month period to a six month period. In accordance with section 733(d) of the Act and 19 CFR 351.210(b), because (1) our preliminary determination is affirmative, (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting the request and are postponing the final determination until no later than 135 days after the publication of this notice in the Federal Register. Suspension of liquidation will be extended accordingly.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

David M. Spooner
Assistant Secretary
for Import Administration

Date | | | | | | |