

DEPARTMENT OF COMMERCE**International Trade Administration**

[A-570-894]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Tissue Paper Products from the People's Republic of China

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

EFFECTIVE DATE: February 14, 2005.

FOR FURTHER INFORMATION CONTACT: Alex Villanueva, Matthew Renkey, John Conniff or Kit Rudd, 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) 482-3208, (202) 482-2312, (202) 482-1009, or (202) 482-1385, respectively.

Final Determination

We determine that certain tissue paper products 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 735 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Final Determination Margins" section of this notice.

SUPPLEMENTARY INFORMATION:**Case History**

On September 21, 2004, the Department of Commerce ("the Department") published its preliminary determination of sales at LTFV, affirmative preliminary determination of critical circumstances, and postponement of the final determination in the antidumping investigation of certain tissue paper products from the PRC. *See Certain Tissue Paper Products and Certain Crepe Paper Products from the People's Republic of China: Notice of Preliminary Determinations of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination for Certain Tissue Paper Products*, 69 FR 56407 (September 21, 2004) ("Preliminary Determination").

During the investigation, the Department examined sales information from two exporters of subject merchandise that were selected as Mandatory Respondents.¹ In addition,

12 companies requested separate rates and we refer to them, collectively, as the Section A Respondents.² We invited interested parties to comment on our Preliminary Determination. Based on our analysis of the comments we received, we have made changes to our determinations for the two Mandatory Respondents. As a result of those changes, the rate assigned to companies which received a separate rate also changed.

On November 24, 2004, the Department issued a memorandum in response to ministerial error allegations filed by China National and Petitioners³ on September 24, 2004, and October 1, 2004. *See Antidumping Duty Investigation of Certain Tissue Paper Products from the People's Republic of China ("China"): Analysis of Allegations of Ministerial Errors*. On December 1, 2004, China National again filed comments regarding alleged ministerial errors. The Department replied to these ministerial error allegations via a letter dated January 3, 2005. The Department conducted verification of the Mandatory Respondents: Fujian Naoshan from November 1-7, 2004, and China National from December 6-17, 2004. *See* the "Verification" section below for additional information.

On January 12, 2005, Mandatory Respondents and Petitioners submitted case briefs; on January 18, 2005, those same parties submitted rebuttal briefs. Also on January 18, 2005, two Section A Respondents filed case briefs; no party filed a rebuttal brief in response to these case briefs. On January 24, 2005, the Department held a public hearing in accordance with section 351.310(d)(1) of the Department's regulations. Representatives for the Mandatory Respondents and Petitioners attended.

Fujian Naoshan Paper Industry Group Co., Ltd. ("Fujian Naoshan").

² Fujian Xinjifu Enterprises, Co., Ltd. ("Fujian Xinjifu"), Qingdao Wenlong Co., Ltd. ("Qingdao Wenlong"), Hunan Winco Light Industry Products Import & Export Co., Ltd. ("Hunan Winco"), Fuzhou Light Industry Import & Export Co., Ltd. ("Fuzhou Light"), Fujian Nanping Investment & Enterprise Co. ("Fujian Nanping"), Guilin Qifeng Paper Co. Ltd. ("Guilin Qifeng"), Ningbo Spring Stationary Limited Company ("Ningbo Spring"), Everlasting Business & Industry Corporation, Ltd. ("Everlasting"), Anhui Light Industrial Import & Export Co., Ltd. ("Anhui Light"), Samsam Production Limited & Guangzhou Baxi Printing Products Limited ("Samsam"), Max Fortune Industrial Limited ("Max Fortune"), and Fuzhou Magicpro Gifts Co., Ltd. ("Magicpro").

³ Seaman Paper Company of Massachusetts Inc.; Eagle Tissue LLC; Flower City Tissue Mills Co.; Garlock Printing & Converting, Inc.; Paper Service Ltd.; Putney Paper Co., Ltd.; and the Paper, Allied-Industrial, Chemical and Energy Workers International Union AFL-CIO, CLC (collective "Petitioners").

Mandatory Respondents

On October 18, 2004, Petitioners filed pre-verification comments regarding Fujian Naoshan. On October 19, 2004, Fujian Naoshan filed its sales reconciliation documentation. China National filed revised financial statements on October 21, 2004, and on October 25, 2004, it filed dye-specific factors of production ("FOP") information. On October 29, 2004, China National submitted its sales reconciliation documentation. On November 10, 2004, China National, Fujian Naoshan, and Petitioners submitted information regarding surrogate values. On November 12, 2004, China National submitted comments on surrogate value information. On November 17, 2004, Petitioners submitted comments on China National's November 12, 2004, submission. On November 29, 2004, Petitioners replied to surrogate value comments submitted by Fujian Naoshan. On December 2, 2004, Petitioners submitted pre-verification comments for China National.

On December 21, 2004, China National submitted the minor corrections that had been presented at verification. On January 7, 2005, Petitioners submitted information regarding a potential undisclosed affiliation for Fujian Naoshan, and supplemented this information with a January 10, 2005, filing. On January 12, 2005, China National submitted an affidavit from one of its counsel from a Chinese law firm concerning certain issues relating to China National's verification. Petitioners further clarified the information in their January 7 and January 10, 2005 filings with a letter submitted on January 14, 2005. On January 14, 2005, Fujian Naoshan submitted a reply to Petitioners' January 7 and January 10, 2005, filings. (Fujian Naoshan's additional arguments regarding this issue were included in its rebuttal brief.) Also on January 14, 2005, China National submitted an affidavit from an industry source regarding tissue paper basis weights. On January 18, 2005, China National filed a revised FOP database, pursuant to a request from the Department.

Section A Respondents

On October 18, 2004, Magicpro notified the Department that it would no longer participate in the investigation. On October 21, 2004, Fujian Xinjifu notified the Department that it would not participate in the verification of its section A response. On October 25, 2004, Hunan Winco submitted new factual information regarding its

¹ China National Aero-Technology Import & Export Xiamen Corporation ("China National") and

separate rates claim. On January 14, 2005, a certain Section A Respondent submitted an affidavit regarding certain information that had been placed on the record concerning Fujian Naoshan.

Scope Comments

Parties did not submit comments regarding scope during the course of this investigation. However, the Department issued a scope ruling based on a request from CSS Industries, Inc. that considered whether jumbo rolls should be included within the scope of this investigation. The Department determined in its ruling that jumbo rolls were not covered by this investigation. See the memorandum entitled "Final Scope Ruling: Antidumping Duty Order on Certain Tissue Paper Products From the People's Republic of China (A-570-894); CSS Industries, Inc.," dated December 1, 2004.

Scope of Investigation

The tissue paper products subject to investigation are cut-to-length sheets of tissue paper having a basis weight not exceeding 29 grams per square meter. Tissue paper products subject to this investigation may or may not be bleached, dye-colored, surface-colored, glazed, surface decorated or printed, sequined, crinkled, embossed, and/or die cut. The tissue paper subject to this investigation is in the form of cut-to-length sheets of tissue paper with a width equal to or greater than one-half (0.5) inch. Subject tissue paper may be flat or folded, and may be packaged by banding or wrapping with paper or film, by placing in plastic or film bags, and/or by placing in boxes for distribution and use by the ultimate consumer. Packages of tissue paper subject to this investigation may consist solely of tissue paper of one color and/or style, or may contain multiple colors and/or styles.

The merchandise subject to this investigation does not have specific classification numbers assigned to them under the Harmonized Tariff Schedule of the United States ("HTSUS"). Subject merchandise may be under one or more of several different subheadings, including: 4802.30; 4802.54; 4802.61; 4802.62; 4802.69; 4804.39; 4806.40; 4808.30; 4808.90; 4811.90; 4823.90; 4820.50.00; 4802.90.00; 4805.91.90; 9505.90.40. The tariff classifications are provided for convenience and customs purposes; however, the written description of the scope of these investigations is dispositive.

Excluded from the scope of this investigation are the following tissue paper products: (1) Tissue paper products that are coated in wax,

paraffin, or polymers, of a kind used in floral and food service applications; (2) tissue paper products that have been perforated, embossed, or die-cut to the shape of a toilet seat, *i.e.*, disposable sanitary covers for toilet seats; (3) toilet or facial tissue stock, towel or napkin stock, paper of a kind used for household or sanitary purposes, cellulose wadding, and webs of cellulose fibers (HTSUS 4803.00.20.00 and 4803.00.40.00).

Analysis of Comments Received

The issue of applying total adverse facts available ("AFA") raised in the case and rebuttal briefs by parties in this investigation are addressed in the *Memorandum to Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration from James C. Doyle, Director, AD/CVD Operations, Office 9, Regarding Application of Total Adverse Facts Available to China National Aero-Technology Import and Export Xiamen Corporation ("China National") in the Final Determination of Sales at Less than Fair Value: Certain Tissue Paper Products from the People's Republic of China ("PRC") ("China National AFA Memo")*, and the *Memorandum to Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration from James C. Doyle, Director, AD/CVD Operations, Office 9, Regarding Application of Total Adverse Facts Available to Fujian Naoshan ("Naoshan") in the Final Determination of Sales at Less than Fair Value: Certain Tissue Paper Products from the People's Republic of China ("PRC") ("Fujian Naoshan AFA Memo")*, both dated February 3, 2005, and which are hereby adopted by this notice. All other issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the *Issues and Decision Memorandum*, dated February 3, 2005, which is also hereby adopted by this notice ("*Issues and Decision Memorandum*"). A list of the issues which parties raised and to which we respond in the *Issues and Decision Memorandum* is attached to this notice as an Appendix. The *Issues and Decision Memorandum* is a public document and is on file in the Central Records Unit ("CRU"), Main Commerce Building, Room B-099, and is accessible on the Web at <http://ia.ita.doc.gov/>. The paper copy and electronic version of the memorandum are identical in content.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the Mandatory Respondents for use in our final determination. See the Department's

verification reports on the record of this investigation in the CRU with respect to China National and Fujian Naoshan. For all verified companies, we used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by the respondents.

Period of Investigation

The period of investigation ("POI") is July 1, 2003, through December 31, 2003.

This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition. See section 351.204(b)(1) of the Department's regulations.

Surrogate Country

In the *Preliminary Determination*, we stated that we had selected India as the appropriate surrogate country to use in this investigation for the following reasons: (1) India is at a level of economic development comparable to that of the PRC; (2) Indian manufacturers produce comparable merchandise and are significant producers of certain tissue paper products; (3) India provides the best opportunity to use appropriate, publicly available data to value the FOPs. See *Preliminary Determination*. We received no comments from interested parties concerning our selection of India as the surrogate country. For the final determination, we have determined to continue to use India as the surrogate country and, accordingly, have calculated the PRC-wide rate using Indian data. We have obtained and relied upon publicly available information wherever possible.

Separate Rates

In the *Preliminary Determination*, the Department found that several companies which provided responses to Section A of the antidumping questionnaire were eligible for a rate separate from the PRC-wide rate. No party submitted comments challenging these separate rate determinations, so we continue to find that those companies remain eligible for a separate rate. For a complete listing of all the companies that received a separate rate, see the "Final Determination Margins" section below.

The Department found that one Section A Respondent, Hunan Winco, did not provide sufficient information to support its request for a separate rate. Accordingly, Hunan Winco has not overcome the presumption that it is part of the PRC-wide entity and its entries will be subject to the PRC-wide rate. See

Issues and Decision Memo at Comment 5. Magicpro, another Section A Respondent, stated that it was withdrawing from the investigation. Section A Respondent Fujian Xinjifu stated that it would not participate in the verification of its response. As such, these two companies did not overcome the presumption that they are part of the PRC-wide entity, and their entries will be subject to the PRC-wide rate. We have also found that China National and Fujian Naoshan are not entitled to separate rates. See the “Facts Available” section below.

The margin we calculated in the *Preliminary Determination* for the companies receiving a separate rate was 91.32 percent. The rates of the selected Mandatory Respondents have changed since the *Preliminary Determination* as we are applying total AFA to them. The rate for Section A Respondents that are eligible for a separate rate is thus now the same as the PRC-wide rate, which is 112.64 percent. This rate was calculated by revising the petition margin and is the only rate available for use in this final determination. See the “PRC-Wide Rate” and “Margins for Cooperative Exporters Not Selected” sections below, and the *Memorandum from Kit L. Rudd, Case Analyst to the File Through Alex Villanueva, Program Manager, Regarding the Calculation and Corroboration of the PRC-Wide Rate, (“PRC-Wide Rate Calculation Memo”)*.

Critical Circumstances

As described below in the “Facts Available” section, we are applying total AFA to China National and Fujian Naoshan. As part of total AFA for China National and Fujian Naoshan, we determine that they are not eligible for separate rates and are therefore part of the PRC-wide entity. See *Fujian Naoshan AFA Memo* and *China National AFA Memo*. No party submitted comments challenging the Department’s critical circumstances finding in the *Preliminary Determination* with regard to the PRC-wide entity. As such, the Department continues to find that critical circumstances exist for the PRC-wide entity, including China National and Fujian Naoshan. Additionally, for this final determination we continue to find that critical circumstances do not exist with regard to imports of certain tissue paper products from the PRC for all the Section A Respondents granted a separate rate. For further details regarding the Department’s critical circumstances analysis from the *Preliminary Determination*, see the *Memo from Edward C. Yang, Office Director to Jeffrey A. May, Deputy*

Assistant Secretary for Import Administration, Regarding the Antidumping Duty Investigation of Certain Tissue Paper Products and Certain Crepe Paper Products from the People’s Republic of China (the “PRC”)—Partial Affirmative Preliminary Determination of Critical Circumstances for Importers of Certain Tissue Paper Products and Crepe Paper Products from the PRC, dated September 21, 2004.

The PRC-Wide Rate

Because we begin with the presumption that all companies within a non-market economy (“NME”) country are subject to government control and because only the companies listed under the “Final Determination Margins” section below have overcome that presumption, we are applying a single antidumping rate—the PRC-wide rate—to all other exporters of subject merchandise from the PRC. Such companies did not demonstrate entitlement to a separate rate. See, e.g., *Final Determination of Sales at Less Than Fair Value: Synthetic Indigo from the People’s Republic of China*, 65 FR 25706 (May 3, 2000). The PRC-wide rate applies to all entries of subject merchandise except for entries from the respondents which are listed in the “Final Determination Margins” section below (except as noted). The information used to calculate this PRC-wide rate was corroborated with some small changes in accordance with section 776(c) of the Act. See *PRC-Wide Rate Calculation and Corroboration Memo, China National AFA Memo* and *Fujian Naoshan AFA Memo*.

Facts Available

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 determination under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Section 776(b) of the Act states that if the administering authority finds that an interested party has not acted to the best of its ability to comply with a request for information, the administering authority may, in reaching its determination, use an inference that is adverse to that party. The adverse

inference may be based upon: (1) The petition, (2) a final determination in the investigation under this title, (3) any previous review under section 751 or determination under section 753, or (4) any other information placed on the record.

Total AFA for China National

For the final determination, the Department is applying facts available to China National because it failed to provide verifiable FOP data and basis weight information that the Department had requested, in accordance with section 776(a)(2)(D) of the Act. Also, China National failed to report sales of subject merchandise to the United States made by one of its affiliates, in accordance with sections 776(a)(2)(A) and (B) of the Act. Moreover, certain information regarding the financial statements of China National’s three affiliated companies involved in the production and sale of subject merchandise calls into question the reliability of the data that would be used to calculate a margin.

Furthermore, in accordance with section 776(b) of the Act, the Department found that China National failed to cooperate to the best of its ability to comply with the Department’s request for information, and, therefore, finds an adverse inference is warranted in determining the facts otherwise available. We also have determined that China National is not eligible for a separate rate. For a complete discussion of this matter, see the *China National AFA Memo*.

Total AFA for Fujian Naoshan

For the final determination, the Department is applying facts available to Fujian Naoshan because it failed to disclose information regarding a possible relationship between it and another exporter of subject merchandise in China, in accordance with sections 776(a)(2) (A) through (D) of the Act.

Furthermore, in accordance with section 776(b) of the Act, the Department found that Fujian Naoshan failed to cooperate to the best of its ability to comply with the Department’s request for information, and, therefore, finds an adverse inference is warranted in determining the facts otherwise available. We also have determined that Fujian Naoshan is not eligible for a separate rate. For a complete discussion of this matter, see the *Fujian Naoshan AFA Memo*.

Changes Since the Preliminary Determination

Based on our findings at verification, additional information placed on the

record of this investigation, and analysis of comments received, we have made changes that impact the dumping margins in this proceeding. For discussion of these changes, see *Issues and Decision Memo, China National AFA Memo, Fujian Naoshan AFA Memo*, and *PRC-Wide Rate Calculation and Corroboration Memo*.

Margins for Section A Respondents Receiving a Separate Rate

As we are applying total AFA to the Mandatory Respondents, those exporters who responded to Section A of the Department's antidumping questionnaire, established their claim for a separate rate, and had sales of the merchandise under investigation, but were not selected as Mandatory Respondents in this investigation, will receive the same rate as the PRC-wide rate, which is 112.64 percent. See *PRC-Wide Rate Calculation and Corroboration Memo*. This rate was calculated by revising the petition margin and is the only rate available for use in this final determination. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Certain Crepe Paper From The People's Republic of China*, 69 FR 70233 (December 3, 2004).

Surrogate Values

The Department made changes to the surrogate values used to calculate the PRC-wide rate from the *Preliminary Determination*. For a complete discussion of the surrogate values, see *Issues and Decisions Memorandum* at Comment 2.

Final Determination Margins

We determine that the following percentage weighted-average margins exist for the POI:

Company	Weighted-average margin (percent)
PRC Wide Rate	112.64

CERTAIN TISSUE PAPER PRODUCTS FROM PRC SECTION A RESPONDENTS

Manufacturer/exporter	Weighted-average margin (percent)
Qingdao Wenlong Co., Ltd. ("Qingdao Wenlong")	112.64
Fujian Nanping Investment & Enterprise Co. ("Fujian Nanping")	112.64

CERTAIN TISSUE PAPER PRODUCTS FROM PRC SECTION A RESPONDENTS—Continued

Manufacturer/exporter	Weighted-average margin (percent)
Fuzhou Light Industry Import & Export Co., Ltd. ("Fuzhou Light")	112.64
Guilin Qifeng Paper Co. Ltd. ("Guilin Qifeng")	112.64
Ningbo Spring Stationary Limited Company ("Ningbo Spring")	112.64
Everlasting Business & Industry Corporation, Ltd. ("Everlasting")	112.64
Anhui Light Industrial Import & Export Co., Ltd. ("Anhui Light")	112.64
Samsam Production Limited & Guangzhou Baxi Printing Products Limited ("Samsam")	112.64
Max Fortune Industrial Limited ("Max Fortune")	112.64

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing U.S. Customs and Border Protection ("CBP") to continue to suspend liquidation of all entries of subject merchandise from the Section A Respondents that received a separate rate, that are entered, or withdrawn from warehouse, for consumption on or after the September 21, 2004, the date of publication of the *Preliminary Determination*. However, with respect to all other PRC exporters, the Department will continue to direct CBP to suspend liquidation of all entries of certain tissue paper products from the PRC that are entered, or withdrawn from warehouse, on or after 90 days before September 21, 2004, the date of publication of the *Preliminary Determination*. These suspension of liquidation instructions will remain in effect until further notice.

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).

United States International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, within 45 days the ITC will determine whether the domestic

industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: February 3, 2005.

Barbara E. Tillman,

Acting Assistant Secretary for Import Administration.

Appendix

- Comment 1: Treatment of Mixed Packages
- Comment 2: Calculation of the Surrogate Financial Ratios
- Comment 3: Request for Initiation of Circumvention Inquiry
- Comment 4: Section A Rate—Max Fortune Industrial Limited ("Max Fortune")
- Comment 5: Section A Rate—Hunan Winco Light Industry Product Import & Export Co. Ltd. ("Hunan Winco")

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DEPARTMENT OF COMMERCE

International Trade Administration

[C-357-813]

Notice of Extension of Time Limit for Final Results of Countervailing Duty Administrative Review: Honey From Argentina

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.