

above in the "Level of Trade" section of this notice, we also made an adjustment for the CEP offset in accordance with section 773(a)(7)(B) of the Act. Finally, we deducted home market packing costs and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Act.

Currency Conversion

We made currency conversions into U.S. dollars based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank, in accordance with section 773A(a) of the Act.

Preliminary Results of Review

We preliminarily determine the following weighted-average dumping margin exists for the period June 1, 2009 through May 31, 2010:

Manufacturer/exporter	Weighted average margin (percentage)
Kolon Industries, Inc.	0.81

The Department will disclose to parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice. See 19 CFR 351.224(b). Pursuant to 19 CFR 351.309, interested parties may submit case briefs not later than 30 days after the publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication of this notice. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) A statement of the issue, (2) a brief summary of the argument; and (3) a table of authorities.

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

The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment

Pursuant to 19 CFR 351.212(b), the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate assessment instructions directly to CBP 15 days after the date of publication of the final results of this review. For assessment purposes, we calculated importer-specific *ad valorem* assessment rates for PET film from Korea based on the ratio of the total amount of the dumping duties calculated for the examined sales to the total entered value of those same sales. See 19 CFR 351.212(b).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Kolon will be the rate established in the final results of review; (2) if the exporter is not a firm covered in this review or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (3) if neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate will be the all-others rate of 21.50 percent from the LTFV investigation. See *Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea; Notice of Final Court Decision and Amended Final Determination of Antidumping Duty Investigation*, 62 FR 50557 (September 26, 1997).

Notification to Importers

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

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

Dated: June 30, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-905]

Certain Polyester Staple Fiber From the People's Republic of China: Notice of Preliminary Results of the Antidumping Duty Administrative Review, and Intent To Revoke Order in Part

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

SUMMARY: The Department of Commerce ("Department") is conducting the third administrative review of the antidumping duty order on certain polyester staple fiber from the People's Republic of China ("PRC") for the period of review ("POR") June 1, 2009, through May 31, 2010. The Department has preliminarily determined that sales have not been made below normal value ("NV") with respect to Ningbo Dafa Chemical Fiber Co., Ltd. ("Ningbo Dafa") and Cixi Santai Chemical Fiber Co., Ltd. ("Cixi Santai") during the POR. If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection ("CBP") to assess antidumping duties on entries of subject merchandise during the POR for which the importer-specific assessment rates are above *de minimis*.

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

DATES: *Effective Date:* July 8, 2011.

FOR FURTHER INFORMATION CONTACT: Jerry Huang or Steven Hampton, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4047 or (202) 482-0116, respectively.

SUPPLEMENTARY INFORMATION:

Background

On June 1, 2007, the Department published in the **Federal Register** an antidumping duty order on certain

polyester staple fiber from the PRC. *See Notice of Antidumping Duty Order: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 30545 (June 1, 2007) ("Order"). On July 28, 2010, the Department published in the **Federal Register** a notice of initiation of an administrative review of certain polyester staple fiber from the People's Republic of China covering the period June 1, 2009, through May 31, 2010, for 11 companies.¹ *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Deferral of Administrative Review*, 75 FR 44225 (July 28, 2010) ("Initiation Notice"). On February 10, 2011, the Department published in the **Federal Register** a notice extending the time period for issuing the preliminary results by 90 days. *See Certain Polyester Staple Fiber from the People's Republic of China: Extension of Preliminary Results of the Antidumping Duty Administrative Review*, 76 FR 7532 (February 10, 2011). On May 17, 2011, the Department published in the **Federal Register** a second notice extending the time period for issuing the preliminary results by an additional 30 days. *See Certain Polyester Staple Fiber from the People's Republic of China: Full Extension of Preliminary Results of the Antidumping Duty Administrative Review*, 76 FR 28420 (May 17, 2011).

Respondent Selection

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

On August 12, 2010, the Department released CBP data for entries of the subject merchandise during the POR under administrative protective order ("APO") to all interested parties having an APO, inviting comments regarding the CBP data and respondent selection. The Department received comments from parties on August 24 and 25, 2010.

¹ Those companies are: Far Eastern Industries, Ltd., (Shanghai) and Far Eastern Polychem Industries; Cixi Sansheng Chemical Fiber Co., Ltd.; Cixi Santai Chemical Fiber Co., Ltd.; Cixi Waysun Chemical Fiber Co., Ltd.; Hangzhou Sanxin Paper Co., Ltd.; Nantong Loulai Chemical Fiber Co., Ltd.; Nan Yang Textile Co., Ltd.; Ningbo Dafa Chemical Fiber Co., Ltd.; Zhaoqing Tifo New Fiber Co., Ltd.; Zhejiang Waysun Chemical Fiber Co., Ltd.; and Huvis Sichuan Chemical Fiber Corporation.

On October 6, 2010, the Department issued its respondent selection memorandum after assessing its resources and determining that it could reasonably examine two exporters subject to this review. Pursuant to section 777A(c)(2)(B) of the Act, the Department selected Ningbo Dafa and Cixi Santai as mandatory respondents.² The Department sent antidumping duty questionnaires to Ningbo Dafa and Cixi Santai on October 13, 2010.

Ningbo Dafa and Cixi Santai submitted the Section A Questionnaire Responses on November 10, 2010, the Section C & D Questionnaire Responses on December 3, 2010. The Department issued supplemental questionnaires to Ningbo Dafa and Cixi Santai between January and February 2011 to which both companies responded.

Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review in whole or in part, if the party that requested the review withdraws its request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation further states that the Secretary may extend the deadline if it is reasonable to do so. On August 17, 2010, Nantong Luolai Chemical Fiber Co., Ltd., NanYang Textiles Co., Ltd., and Cixi Sansheng Chemical Fiber Co., Ltd. ("Sansheng") timely withdrew their requests for review. On September 9, 2010, Fibertex Corporation ("Fibertex"), an importer of polyester staple fiber from the PRC, timely withdrew its request for a review with respect to Far Eastern Industries, Ltd. (Shanghai) and Far Eastern Polychem Industries. On September 20, 2010, Cixi Waysun Chemical Fiber Co., Ltd. timely withdrew its request for review. On October 15, 2010, Fibertex timely withdrew its request for a review with respect to Sansheng.

Because these parties withdrew their respective requests for an administrative review within 90 days of the date of publication of the notice of initiation, and there were no outstanding requests for an administrative review for these exporters, the Department rescinded this review with respect to the five exporters, in accordance with 19 CFR 351.213(d)(1). *See Certain Polyester*

² *See* Memorandum to James Doyle, Director, Office 9, Import Administration, from Steven Hampton, International Trade Compliance Analyst, Office 9, Import Administration, regarding 3rd Administrative Review of Certain Polyester Staple Fiber from the PRC: Selection of Respondents for Individual Review, dated October 6, 2010 ("Respondent Selection Memo").

Staple Fiber From the People's Republic of China: Partial Rescission of the Third Antidumping Duty Administrative Review, 75 FR 70906 (November 19, 2010).

Surrogate Country and Surrogate Value Data

On November 8, 2010, the Department sent interested parties a letter inviting comments on surrogate country selection and surrogate value ("SV") data.³ No parties provided comments with respect to selection of a surrogate country or information to value factors of production ("FOP").

Scope of the Order

The merchandise subject to the order is synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The subject merchandise may be coated, usually with a silicon or other finish, or not coated. PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture.

The following products are excluded from the scope of the order: (1) PSF of less than 3.3 decitex (less than 3 denier) currently classifiable in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheading 5503.20.0025 and known to the industry as PSF for spinning and generally used in woven and knit applications to produce textile and apparel products; (2) PSF of 10 to 18 denier that are cut to lengths of 6 to 8 inches and that are generally used in the manufacture of carpeting; and (3) low-melt PSF defined as a bi-component fiber with an outer, non-polyester sheath that melts at a significantly lower temperature than its inner polyester core (classified at HTSUS 5503.20.0015).

Certain PSF is classifiable under the HTSUS subheadings 5503.20.0045 and 5503.20.0065. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under the order is dispositive.

Verification

Pursuant to 19 CFR 351.307(b)(iv), between March 21 and March 30, 2011 the Department conducted verification of Ningbo Dafa and Cixi Santai's

³ *See* the Department's Letter to All Interested Parties, regarding Antidumping Duty Administrative Review of Certain Polyester Staple Fiber from the People's Republic of China, dated November 8, 2010 ("Surrogate Country List").

separate rate status, sales and FOP submissions.⁴

Non-Market Economy (“NME”) Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. 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. *See, e.g., Brake Rotors from the People’s Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review*, 71 FR 66304 (November 14, 2006). None of the parties to this proceeding have contested such treatment. Accordingly, the Department calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

Surrogate Country

When the Department investigates imports from an NME country and available information does not permit the Department to determine NV pursuant to section 773(a) of the Act, then, pursuant to section 773(c)(4) of the Act, the Department bases NV on an NME producer’s FOPs, to the extent possible, in one or more market-economy countries that (1) are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. The Department determined Colombia, India, Indonesia, Peru, the Philippines, and Thailand are countries comparable to the PRC in terms of economic development.⁵

Based on publicly available information (e.g., production data), the Department determines India to be a reliable source for SVs because India is at a comparable level of economic development pursuant to section 773(c)(4) of the Act, is a significant producer of subject merchandise, and has publicly available and reliable data. Accordingly, the Department has

selected India as the surrogate country for purposes of valuing the FOPs because it meets the Department’s criteria for surrogate country selection.

Separate Rates

In AD proceedings involving NME countries, it is the Department’s practice to begin with a rebuttable presumption that the export activities of all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. *See, e.g., Policy Bulletin 05.1*;⁶ *see also Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from the People’s Republic of China*, 71 FR 53079, 53082 (September 8, 2006); *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People’s Republic of China*, 71 FR 29303, 29307 (May 22, 2006) (“*Diamond Sawblades*”). 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 affirmatively demonstrate that it is sufficiently independent so as to be entitled to a separate rate. *See, e.g., Diamond Sawblades*, 71 FR at 29307. Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* government control over export activities. *Id.* The Department analyzes each entity exporting the subject merchandise under a test arising from the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People’s Republic of China*, 56 FR 20588, 20589 (May 6, 1991) (“*Sparklers*”), as further developed in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People’s Republic of China*, 59 FR 22585, 22586–87 (May 2, 1994) (“*Silicon Carbide*”). However, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a separate rate analysis is not necessary to determine whether it is independent from government control. *See, e.g., Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles from the People’s Republic of*

China, 72 FR 52355, 52356 (September 13, 2007).

In addition to the two mandatory respondents, Ningbo Dafa and Cixi Santai, the Department received separate rate applications or certifications from the following four companies (“Separate-Rate Applicants”): Hangzhou Sanxin Paper Co., Ltd.; Huvis Sichuan Chemical Fiber Corporation; Zhaoqing Tifo New Fiber Co., Ltd.; and Zhejiang Waysun Chemical Fiber Co., Ltd.

a. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter’s business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *See Sparklers*, 56 FR at 20589. The evidence provided by Ningbo Dafa, Cixi Santai, and the Separate-Rate Applicants supports a preliminary finding of *de jure* absence of government control based on the following: (1) An absence of restrictive stipulations associated with the individual exporter’s business and export licenses; (2) there are applicable legislative enactments decentralizing control of the companies; and (3) there are formal measures by the government decentralizing control of companies. *See, e.g., Ningbo Dafa’s Section A Questionnaire Response*, dated November 10, 2010, at Exhibit A2.

b. Absence of De Facto Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* government control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a government agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See Silicon Carbide*, 59 FR at 22586–87; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People’s Republic of China*, 60 FR 22544, 22545 (May 8, 1995). The Department has determined that an analysis of *de facto* control is critical in

⁴ See Memorandum to the File through Scot T. Fullerton, Program Manager, Office 9, from Jerry Huang, International Trade Analyst, “Verification of the Sales and Factors of Production Response of Ningbo Dafa Chemical Fiber Co. Ltd. in the 2009–10 Administrative Review of Certain Polyester Staple Fiber from the People’s Republic of China,” dated June 30, 2011; Memorandum to the File through Scot T. Fullerton, Program Manager, Office 9, from Steven Hampton, International Trade Analyst, “Verification of the Sales and Factors of Production Response of Cixi Santai Chemical Fiber Co. Ltd. in the 2009–10 Administrative Review of Certain Polyester Staple Fiber from the People’s Republic of China,” dated June 30, 2011.

⁵ See Surrogate Country List.

⁶ See Separate Rates and Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries, 70 FR 17233 (April 5, 2005), also available at: <http://ia.ita.doc.gov/policy/index.html>.

determining whether respondents are, in fact, subject to a degree of government control which would preclude the Department from assigning separate rates. The evidence provided by Ningbo Dafa, Cixi Santai, and the Separate-Rate Applicants supports a preliminary finding of *de facto* absence of government control based on the following: (1) The companies set their own export prices independent of the government and without the approval of a government authority; (2) the companies have authority to negotiate and sign contracts and other agreements; (3) the companies have autonomy from the government in making decisions regarding the selection of management; and (4) there is no restriction on any of the companies' use of export revenue.⁷

Separate Rate Calculation

In the "Respondent Selection" section above, we stated that the Department employed a limited examination methodology, as it did not have the resources to examine all companies for which a review request was made, and selected two exporters, Ningbo Dafa and Cixi Santai, as mandatory respondents in this review. The remaining companies submitted timely information as requested by the Department and thus, the Department has preliminarily determined to treat these companies as cooperative Separate-Rate Applicants.

The statute and the Department's regulations do not address the establishment of a rate to be applied to individual companies not selected for examination where the Department limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. The Department's practice in cases involving limited selection based on exporters accounting for the largest volumes of trade has been to look to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents we did not examine in an

administrative review. Consequently, the Department generally weight-averages the rates calculated for the mandatory respondents, excluding zero and *de minimis* rates and rates based entirely on facts available ("FA").⁸

This is the third administrative review of this order. In these preliminary results, as well as in the two prior administrative reviews, the two selected mandatory respondents received *de minimis* margins. As a result, in this case the Department must use another reasonable method to determine the margin applicable to the separate rate respondents. The Department's practice is first to apply the most recently calculated margin from a prior segment for any of the current separate rate respondents. In this case, the only other company with a calculated margin during this order is not currently a separate rate respondent. As a result of there being no other non-*de minimis* or non-AFA-based margins available, the Department has used the weighted-average margin from the investigation to apply to the separate rate respondents in this case. Pursuant to this method, we are assigning the rate of 4.44 percent, the most recent positive rate (from the less-than-fair-value ("LTFV") investigation) calculated for cooperative separate rate respondents. Entities receiving this rate are identified by name in the "Preliminary Results of Review" section of this notice.

Date of Sale

Ningbo Dafa and Cixi Santai reported the invoice date as the date of sale because they claim that, for their U.S. sales of subject merchandise made during the POR, the material terms of sale were established on the invoice date. The Department preliminarily determines that the invoice date is the most appropriate date to use as Ningbo Dafa's and Cixi Santai's date of sale is in accordance with 19 CFR 351.401(i) and the Department's long-standing practice of determining the date of sale.⁹

⁸ See, e.g., *Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Results of New Shipper Review and Partial Rescission of Administrative Review*, 73 FR 8273 (February 13, 2008) (unchanged in *Wooden Bedroom Furniture From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and New Shipper Review*, 73 FR 49162 (August 20, 2008)).

⁹ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from Thailand*, 69 FR 76918 (December 23, 2004) and accompanying Issues and Decision Memorandum at Comment 10.

Fair Value Comparisons

To determine whether sales of certain polyester staple fiber to the United States by Ningbo Dafa and Cixi Santai were made at less-than-fair-value, the Department compared the export price ("EP") to NV, as described in the "U.S. Price," and "Normal Value" sections below.

U.S. Price

Export Price

In accordance with section 772(a) of the Act, the Department calculated the EP for the sales to the United States from Ningbo Dafa and Cixi Santai because the first sale to an unaffiliated party was made before the date of importation. The Department calculated EP based on the price to unaffiliated purchasers in the United States. In accordance with section 772(c) of the Act, as appropriate, the Department deducted foreign inland freight and brokerage and handling from the starting price to unaffiliated purchasers. Each of these services was either provided by an NME vendor or paid for using an NME currency. Thus, the Department based the deduction of these movement charges on SVs.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on the FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.

Factor Valuations

In accordance with 19 CFR 351.408(c)(1), the Department will normally use publicly available information to value the FOPs, but when a producer sources an input from a market economy ("ME") country and pays for it in an ME currency, the Department may value the factor using the actual price paid for the input. During the POR, both Ningbo Dafa and Cixi Santai reported that they purchased certain inputs from an ME supplier and paid for the inputs in an ME currency. See Ningbo Dafa Section C & D Questionnaire Response, dated December 3, 2010, at D-7-8 and Exhibit D-3; and Cixi Santai's Section C & D Questionnaire Response, dated

⁷ See, e.g., Ningbo Dafa's Section A Questionnaire Response at 2-10; Cixi Santai's Section A Questionnaire Response at 1-11; Hangzhou Sanxin Co., Ltd.'s Separate Rate Certification, dated September 27, 2010, at 6-7; Zhaoqing Tifo New Fibre Co., Ltd.'s Separate Rate Certification, dated September 27, 2010, at 6-7; Zhejiang Waysun Chemical Fiber Co. Ltd.'s Separate Rate Certification, dated September 27, 2010, at 5-6; and Huvis Sichuan Co. Ltd.'s Separate Rate Application, dated September 27, 2010, at 15-23. Therefore, the Department preliminarily finds that Ningbo Dafa, Cixi Santai, and the Separate-Rate Applicants have established that they qualify for a separate rate under the criteria established by Silicon Carbide and Sparklers.

December 3, 2010, at Exhibit D–3. The Department confirmed that these inputs were produced in ME countries through supplemental questionnaires and again at verification. The Department has a rebuttable presumption that ME input prices are the best available information for valuing an input when the total volume of the input purchased from all ME sources during the period of investigation or review exceeds 33 percent of the total volume of the input purchased from all sources during the period. *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) (“*Antidumping Methodologies*”).

In these cases, unless case-specific facts provide adequate grounds to rebut the Department’s presumption, the Department will use the weighted-average ME purchase price to value the input. Alternatively, when the volume of an NME firm’s purchases of an input from ME suppliers during the period is below 33 percent of its total volume of purchases of the input during the period, but where these purchases are otherwise valid and there is no reason to disregard the prices, the Department will weight-average the ME purchase price with an appropriate SV according to their respective shares of the total volume of purchases, unless case-specific facts provide adequate grounds to rebut the presumption. *See Antidumping Methodologies*. When a firm has made ME input purchases that may have been dumped or subsidized, are not *bona fide*, or are otherwise not acceptable for use in a dumping calculation, the Department will exclude them from the numerator of the ratio to ensure a fair determination of whether valid ME purchases meet the 33-percent threshold. *See Antidumping Methodologies*.

In accordance with section 773(c) of the Act, for subject merchandise produced by Ningbo Dafa and Cixi Santai, the Department calculated NV based on the FOPs reported by Ningbo Dafa and Cixi Santai for the POR. The Department used Indian import data and other publicly available Indian sources in order to calculate surrogate values for Ningbo Dafa and Cixi Santai’s FOPs. To calculate NV, the Department multiplied the reported per-unit factor quantities by publicly available Indian surrogate values. The Department’s practice when selecting the best available information for valuing FOPs is to select, to the extent practicable, surrogate values which are product-specific, representative of a broad-

market average, publicly available, contemporaneous with the POR and exclusive of taxes and duties. *See, e.g., Electrolytic Manganese Dioxide From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 48195 (August 18, 2008) and accompanying Issues and Decision Memorandum at Comment 2. The record shows that data in the Indian Import Statistics, as well as those from the other Indian sources, are contemporaneous with the POR, product-specific, and tax-exclusive. *See* Memorandum to the File through Scot T. Fullerton, Program Manager, Office 9 from Jerry Huang, International Trade Analyst: Antidumping Duty Administrative Review of Certain Polyester Staple Fiber from the People’s Republic of China (“PRC”): Surrogate Values for the Preliminary Results (“Prelim Surrogate Value Memo”) dated June 30, 2011. In those instances where the Department could not obtain publicly available information contemporaneous to the POR with which to value factors, the Department adjusted the SVs using, where appropriate, the Indian Wholesale Price Index (“WPI”) as published in the International Financial Statistics of the International Monetary Fund, a printout of which is attached to the Prelim Surrogate Value Memo at Attachment 3. Where necessary, the Department adjusted SVs for inflation and exchange rates, taxes, and the Department converted all applicable items to a per-kilogram basis.

As appropriate, the Department adjusted input prices by including freight costs to render them delivered prices. Specifically, the Department added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where we relied on an import value. This adjustment is in accordance with the decision of the *Federal Circuit in Sigma Corp. v. United States*, 117 F.3d 1401, 1408 (Fed. Cir. 1997).

The Department used Indian import data from the Global Trade Atlas (“GTA”) published by Global Trade Information Services, Inc. (“GTIS”), which is sourced from the Directorate General of Commercial Intelligence & Statistics, Indian Ministry of Commerce, to determine the surrogate values for certain raw materials, by-products, and packing material inputs. The Department has disregarded statistics from NMEs, countries with generally available export subsidies, and countries listed as “unidentified” in GTA in calculating the average value. In

accordance with the *OTCA 1988* legislative history, the Department continues to apply its long-standing practice of disregarding SVs if it has a reason to believe or suspect the source data may be subsidized.¹⁰ In this regard, the Department has previously found that it is appropriate to disregard such prices from India, Indonesia, South Korea and Thailand because we have determined that these countries maintain broadly available, non-industry specific export subsidies.¹¹ Based on the existence of these subsidy programs that were generally available to all exporters and producers in these countries at the time of the POR, the Department finds that it is reasonable to infer that all exporters from Indonesia, South Korea and Thailand may have benefitted from these subsidies. For a detailed description of all SVs used for Ningbo Dafa and Cixi Santai, *see* Prelim Surrogate Value Memo.

The Department valued electricity using the updated electricity price data for small, medium, and large industries, as published by the Central Electricity Authority, an administrative body of the Government of India, in its publication titled *Electricity Tariff & Duty and Average Rates of Electricity Supply in India*, dated March 2008. These electricity rates represent actual country-wide, publicly-available information on tax-exclusive electricity rates charged to small, medium, and large industries in India. We did not inflate this value because utility rates represent current rates, as indicated by the effective dates listed for each of the rates provided.

The Department valued water using data from the Maharashtra Industrial Development Corporation (“MIDC”) as it includes a wide range of industrial water tariffs. To value water, we used the average rate for industrial use from MIDC water rates at <http://www.midcindia.org>. Section 733(c) of the Act provides that the Department will value the FOPs in NME cases using the best available information regarding

¹⁰ Omnibus Trade and Competitiveness Act of 1988, Conf. Report to Accompany H.R. 3, H.R. Rep. No. 576, 100th Cong., 2nd Sess. (1988) (“*OTCA 1988*”) at 590.

¹¹ *See e.g., Expedited Sunset Review of the Countervailing Duty Order on Carbazole Violet Pigment 23 from India*, 75 FR 13257 (March 19, 2010) and accompanying Issues and Decision Memorandum at 4–5; *Expedited Sunset Review of the Countervailing Duty Order on Certain Cut-to-Length Carbon Quality Steel Plate from Indonesia*, 70 FR 45692 (August 8, 2005) and accompanying Issues and Decision Memorandum at 4; *see Certain Hot-Rolled Carbon Steel Flat Products from Thailand: Final Results of Countervailing Duty Determination*, 66 FR 50410 (October 3, 2001) and accompanying Issues and Decision Memorandum at 23.

the value of such factors in a ME country or countries considered to be appropriate by the administering authority. The Act requires that when valuing FOP, the Department utilize, to the extent possible, the prices or costs of factors of production in one or more ME countries that are (1) at a comparable level of economic development and (2) significant producers of comparable merchandise. See section 773(c)(4) of the Act.

Previously, the Department used regression-based wages that captured the worldwide relationship between per capita Gross National Income (“GNI”) and hourly manufacturing wages, pursuant to 19 CFR 351.408(c)(3), to value the respondent’s cost of labor. However, on May 14, 2010, the Court of Appeals for the Federal Circuit (“CAFC”), in *Dorbest Ltd. v. United States*, 604 F.3d 1363, 1372 (Fed. Cir. 2010) (“*Dorbest*”), invalidated 19 CFR 351.408(c)(3). As a consequence of the CAFC’s ruling in *Dorbest*, the Department no longer relies on the regression-based wage rate methodology described in its regulations. On February 18, 2011, the Department published in the **Federal Register** a request for public comment on the interim methodology, and the data sources. See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor, Request for Comment*, 76 FR 9544 (Feb. 18, 2011).

On June 21, 2011, the Department revised its methodology for valuing the labor input in NME antidumping proceedings. See *Antidumping Methodologies in Proceedings Involving Non-Market Economies: Valuing the Factor of Production: Labor*, 76 FR 36092 (June 21, 2011) (“*Labor Methodologies*”). In *Labor Methodologies*, the Department determined that the best methodology to value the labor input is to use industry-specific labor rates from the primary surrogate country. Additionally, the Department determined that the best data source for industry-specific labor rates is Chapter 6A: Labor Cost in Manufacturing, from the International Labor Organization (ILO) Yearbook of Labor Statistics (“Yearbook”).

In these preliminary results, the Department calculated the labor input using the wage method described in *Labor Methodologies*. To value the mandatory respondents’ labor input, the Department relied on data reported by India to the ILO in Chapter 6A of the Yearbook. The Department further finds the two-digit description under ISIC–Revision 3 (“Manufacture of chemicals and chemical products”) to be the best

available information on the record because it is specific to the industry being examined, and is therefore derived from industries that produce comparable merchandise. The explanatory notes for this sub-classification state that this sub-classification includes the manufacture of man-made fibers. Accordingly, relying on Chapter 6A of the Yearbook, the Department calculated the labor input using labor data reported by India to the ILO under Sub-Classification 24 of the ISIC–Revision 3 standard, in accordance with Section 773(c)(4) of the Act. For these preliminary results, the calculated industry-specific wage rate is Rs. 74.58. A more detailed description of the wage rate calculation methodology is provided in the Prelim Surrogate Value Memo.

As stated above, the Department used Indian ILO data reported under Chapter 6A of Yearbook, which reflects all costs related to labor, including wages, benefits, housing, training, etc. Since the financial statement used to calculate the surrogate financial ratios includes itemized detail of indirect labor costs, the Department made adjustments to the surrogate financial ratios. See *Labor Methodologies*; see also *Prelim Surrogate Value Memo*.

The Department valued truck freight expenses using a per-unit average rate calculated from data on the Infobanc Web site: <http://www.infobanc.com/logistics/logtruck.htm>. The logistics section of this Web site contains inland freight truck rates between many large Indian cities. Since this value is not contemporaneous with the POR, the Department deflated the rate using WPI.

The Department valued brokerage and handling using a price list of export procedures necessary to export a standardized cargo of goods in India. The price list is compiled based on a survey case study of the procedural requirements for trading a standard shipment of goods by ocean transport in India that is published in *Doing Business 2010: India*, by the World Bank. The study assumes that payment is secured by letters of credit (“LC”), and the time and cost for issuing and securing a LC is included in the value. As Ningbo Dafa and Cixi Santai do not export using LC, we have accordingly deducted the necessary costs of securing LC based on the schedule of charges published by the Bank of India. See *Prelim Surrogate Value Memo*.

To value factory overhead, selling, general, and administrative (“SG&A”) expenses, and profit, the Department used the audited financial statements of Ganesh Polytex Limited.

We are preliminarily granting a by-product offset to Ningbo Dafa for waste paper and waste bottle hood. We are also preliminarily granting a by-product offset to Ningbo Dafa for waste fiber based on its production of waste fiber, as opposed to its POR reintroduction of waste fiber. Similarly, we are preliminarily granting a by-product offset to Cixi Santai for polypropylene (“PP”) waste and polyethylene terephthalate (“PET”) waste.

Currency Conversion

Where necessary, the Department 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. We relied on the daily exchange rates posted on the Import Administration Web site (<http://www.trade.gov/ia/>). See *Prelim Surrogate Value Memo*.

Notice of Intent To Revoke Order, in Part

On June 28, 2010, Ningbo Dafa and Cixi Santai requested revocation of the antidumping duty order with respect to their sales of subject merchandise, pursuant to 19 CFR 351.222(e). These requests were accompanied by certifications, pursuant to 19 CFR 351.222(e)(1) that: (1) Ningbo Dafa and Cixi Santai have sold the subject merchandise at not less than NV for at least three consecutive years and that they will not sell the merchandise at less than NV in the future; and (2) Ningbo Dafa and Cixi Santai sold subject merchandise to the United States in commercial quantities for a period of at least three consecutive years. Ningbo Dafa and Cixi Santai also agreed to immediate reinstatement of the antidumping duty order, as long as any exporter or producer is subject to the order, if the Department concludes that, subsequent to its revocation, they sold the subject merchandise at less than NV.

Pursuant to section 751(d) of the Act, the Department “may revoke, in whole or in part” an antidumping duty order upon completion of a review under section 751(a) of the Act. In determining whether to revoke an antidumping duty order in part, the Department considers: (1) Whether the company in question has sold subject merchandise at not less than NV for a period of at least three consecutive years; (2) whether during each of the three consecutive years for which the company sold the merchandise at not less than normal value, it sold the merchandise to the United States in commercial quantities;

and (3) the company has agreed in writing to its immediate reinstatement in the order, as long as any exporter or producer is subject to the order, if the Department concludes that the company, subsequent to revocation, sold the subject merchandise at less than NV.¹² We have preliminarily determined that the request from both Ningbo Dafa and Cixi Santai meets all of the criteria under 19 CFR 351.222(e)(1). Our preliminary margin calculation confirms that Ningbo Dafa and Cixi Santai sold subject merchandise at not less than NV during the current review period. See the "Preliminary Results of the Review" section below. In addition, we have confirmed that Ningbo Dafa and Cixi Santai sold subject merchandise at not less than NV in the two previous administrative reviews in which they were individually examined (*i.e.*, their dumping margins were zero or *de minimis*).¹³

Based on our examination of the sales data submitted by Ningbo Dafa and Cixi Santai, we preliminarily determine that they both sold the subject merchandise in the United States in commercial quantities in each of the consecutive years cited by Ningbo Dafa and Cixi Santai to support their requests for revocation.¹⁴ Thus, we preliminarily find that Ningbo Dafa and Cixi Santai had zero or *de minimis* dumping margins for the last three years and sold subject merchandise in commercial quantities in each of these years. Also, we preliminarily determine, pursuant to section 751(d) of the Act and 19 CFR 351.222(b)(2), that the application of the antidumping duty order with respect to Ningbo Dafa and Cixi Santai is no longer warranted for the following reasons: (1) The companies had a zero or *de minimis* margin for a period of at least three consecutive years; (2) the companies have agreed to immediate reinstatement of the order if the Department finds that it has resumed making sales at less than NV; and, (3) the continued application of the order is not otherwise necessary to offset dumping. Therefore, we

preliminarily determine that subject merchandise produced and exported by Ningbo Dafa and Cixi Santai qualify for revocation from the antidumping duty order on certain polyester staple fiber from the PRC and that the order with respect to such merchandise should be revoked. If these preliminary findings are affirmed in our final results, we will revoke this order, in part, with respect to certain polyester staple fiber produced and exported by Ningbo Dafa and Cixi Santai and, in accordance with 19 CFR 351.222(f)(3), terminate the suspension of liquidation for any of the merchandise in question that is entered, or withdrawn from warehouse, for consumption on or after June 1, 2010, and instruct CBP to release any cash deposits for such entries.

Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margins exist:

Manufacturer/exporter	Weighted-Average Margin (percent)
Ningbo Dafa Chemical Fiber Co., Ltd	0.00
Cixi Santai Chemical Fiber Co.	0.00
Hangzhou Sanxin Paper Co., Ltd	4.44
Zhaoqing Tifo New Fiber Co., Ltd	4.44
Huvis Sichuan Chemical Fiber Corporation	4.44
Zhejiang Waysun Chemical Fiber Co., Ltd	4.44

The Department will disclose to parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice. See 19 CFR 351.224(b). In accordance with 19 CFR 351.301(c)(3)(ii), for the final results of this administrative review, interested parties may submit publicly available information to value the factors of production within 20 days after the date of publication of these preliminary results. Interested parties must provide the Department with supporting documentation for the publicly available information to value each FOP. Additionally, in accordance with 19 CFR 351.301(c)(1), for the final results of this administrative review, 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

rebutts, clarifies, or corrects information recently placed on the record. The Department generally cannot accept the submission of additional, previously absent-from-the-record alternative SV 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.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, Room 1117, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. *Id.* Issues raised in the hearing will be limited to those raised in the respective case briefs. Case briefs from interested parties may be submitted not later than 30 days of the date of publication of this notice, pursuant to 19 CFR 351.309(c). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days later, pursuant to 19 CFR 351.309(d). Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. See 19 CFR 351.309(c) and (d).

The Department will issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by these reviews. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. In accordance with 19 CFR 351.212(b)(1), we calculated exporter/importer (or customer)-specific assessment rates for the merchandise subject to this review. Where the respondent has reported reliable entered values, we calculated importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and

¹² See 19 CFR 351.222(e)(1).

¹³ See *Certain Polyester Staple Fiber From the People's Republic of China: Final Results and Partial Rescission of Second Antidumping Duty Administrative Review*, 76 FR 2886 (January 18, 2011); *First Administrative Review of Certain Polyester Staple Fiber From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 75 FR 1336 (January 11, 2010).

¹⁴ See Memorandum to the File entitled, "Analysis of Commercial Quantities for Ningbo Dafa Chemical Fiber Co. Ltd.'s Request for Revocation," dated June 30, 2011; Memorandum to the File entitled, "Analysis of Commercial Quantities for Cixi Santai Chemical Fiber Co. Ltd.'s Request for Revocation," also dated June 30, 2011.

dividing this amount by the total entered value of the sales to each importer (or customer). See 19 CFR 351.212(b)(1). Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis*, we will apply the assessment rate to the entered value of the importers'/customers' entries during the POR. See 19 CFR 351.212(b)(1).

Where we do not have entered values for all U.S. sales, we calculated a per-unit assessment rate by aggregating the antidumping duties due for all U.S. sales to each importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer). See 19 CFR 351.212(b)(1). To determine whether the duty assessment rates are *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer (or customer)-specific *ad valorem* ratios based on the estimated entered value. Where an importer (or customer)-specific *ad valorem* rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties. See 19 CFR 351.106(c)(2).

For the companies receiving a separate rate that were not selected for individual review, the assessment rate will be based on the rate listed above.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the separate rate companies listed above, the cash deposit rate will be established in the final results of this review (except, if the rate is zero or *de minimis*, i.e., less than 0.5 percent, no cash deposit will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 44.3 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements,

when imposed, shall remain in effect until further notice.

Notification to Importers

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

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: June 30, 2011.

Ronald K. Lorentzen,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 2011-17207 Filed 7-7-11; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the Florida Keys National Marine Sanctuary Advisory Council

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The ONMS is seeking applications for the following vacant positions on the Florida Keys National Marine Sanctuary Advisory Council: Boating Industry (alternate), Citizen at Large—Lower Keys (member), Citizen at Large—Lower Keys (alternate), Conservation and Environment [1 of 2] (member), Conservation and Environment [1 of 2] (alternate), Diving—Lower Keys (member), Diving—Lower Keys (alternate), Fishing—Commercial—Marine/Tropical (member), Fishing—Commercial—Marine/Tropical (alternate), Fishing—Charter Fishing Flats Guide (member), Fishing—Charter Fishing Flats Guide (alternate), South Florida Ecosystem Restoration (member), and South Florida Ecosystem Restoration (alternate). Applicants are chosen based upon their particular expertise and experience in relation to the seat for

which they are applying; community and professional affiliations; philosophy regarding the protection and management of marine resources; and possibly the length of residence in the area affected by the sanctuary. Applicants who are chosen as members should expect to serve 3-year terms, pursuant to the council's Charter.

DATES: Applications are due by August 5, 2011.

ADDRESSES: Application kits may be obtained from Lilli Ferguson, Florida Keys National Marine Sanctuary, 33 East Quay Rd., Key West, FL, 33040. Completed applications should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Lilli Ferguson, Florida Keys National Marine Sanctuary, 33 East Quay Rd., Key West, FL 33040; (305) 292-0311 x245; Lilli.Ferguson@noaa.gov.

SUPPLEMENTARY INFORMATION: Per the council's Charter, if necessary, terms of appointment may be changed to provide for staggered expiration dates or member resignation mid term.

Authority: 16 U.S.C. 1431, *et seq.*
(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: June 8, 2011.

Daniel J. Basta,

Director, Office of National Marine Sanctuaries, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2011-17195 Filed 7-7-11; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XA434

Fisheries of the Exclusive Economic Zone Off Alaska; Prohibited Species Donation Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; selection of an authorized distributor.

SUMMARY: NMFS announces the renewal of permits to SeaShare authorizing this organization to distribute Pacific salmon and Pacific halibut to economically disadvantaged individuals under the prohibited species donation (PSD) program. Salmon and halibut are caught incidentally during directed fishing for groundfish with trawl gear off Alaska. This action is necessary to comply with