

in this proceeding is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of PET resin from Thailand are materially injuring, or threaten material injury to, the U.S. industry.

#### Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs by the later of 50 days after the date of publication of this notice or one week after the issuance of the verification reports. *See* 19 CFR 351.309(c)(1)(I). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days after the deadline for the submission of case briefs. *See* 19 CFR 351.309(d). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette.

In accordance with section 774 of the Act, we will hold a public hearing, if requested, 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 will tentatively hold the hearing two days after the deadline for submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate in a hearing 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 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. At the hearing, oral presentations will be limited to issues raised in the briefs. *See* 19 CFR 351.310(c).

The Department will make its final determination no later than 135 days after the date of publication of this preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: October 20, 2004.

**James J. Jochum,**  
Assistant Secretary for Import  
Administration.

[FR Doc. 04-24094 Filed 10-27-04; 8:45 am]

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#### DEPARTMENT OF COMMERCE

##### International Trade Administration (A-533-841)

##### Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Bottle-Grade Polyethylene Terephthalate (PET) Resin from India

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

**EFFECTIVE DATE:** October 28, 2004

**FOR FURTHER INFORMATION CONTACT:**  
Daniel O'Brien or Saliha Loucif at (202)  
482-1376 or (202) 484-1779,  
respectively; AD/CVD Enforcement,  
Office 1, Import Administration, Room  
1870, International Trade  
Administration, U.S. Department of  
Commerce, 14th Street and Constitution  
Avenue, NW, Washington, DC 20230.

##### SUPPLEMENTARY INFORMATION:

##### Preliminary Determination

We preliminarily determine that bottle-grade polyethylene terephthalate (PET) resin from India is being sold, or is 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 preliminary margin assigned to Reliance Industries Limited (Reliance) is based on adverse facts available. The estimated margins of sales at LTFV are shown in the *Suspension of Liquidation* section of this notice.

Interested parties are invited to comment on this preliminary determination. We will make our final determination not later than 135 days after the date of publication of this preliminary determination in the **Federal Register**.

##### Petitioner

The petitioner in this investigation is the United States PET Resin Producers Coalition (the petitioner).

##### Case History

This investigation was initiated on April 20, 2004. *See Notice of Initiation of Antidumping Duty Investigations:*

*Bottle-Grade Polyethylene Terephthalate Resin from India, Indonesia, Taiwan, and Thailand*, 69 FR 21082 (April 20, 2004) (*Initiation Notice*). Since the initiation of the investigation, the following events have occurred:

The Department of Commerce (the Department) set aside a period for all interested parties to raise issues regarding product coverage. *See Initiation Notice*, 69 FR 21083. No comments were received from respondents or the petitioner.

The Department issued a letter on May 10, 2004, to interested parties in all of the concurrent PET resin antidumping investigations, providing an opportunity to comment on the Department's proposed model match characteristics and its hierarchy of characteristics. On May 17, 2004, the Department received comments on model matching from the petitioner, Reliance, South Asia Petrochem Ltd. (SAPL), Far Eastern Textiles and P.T. Indorama Synthetics. The Department took these comments were taken into consideration in developing the model matching characteristics and hierarchy for all of the PET resin antidumping investigations. *See Memorandum to Susan Kuhbach, Senior Director, Re: Selection of Model Matching Criteria for Purposes of the Antidumping Duty Questionnaire* (June 9, 2004).

On May 17, 2004, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of the products subject to this investigation are materially injuring an industry in the United States producing the domestic like product. *See United States International Trade Commission Report on Polyethylene Terephthalate Resin from India, Indonesia, Taiwan, and Thailand*, Nos. 701-TA-439-440 and 731-TA-1077-1080 (May 17, 2004).

On June 9, 2004, the Department issued its antidumping duty questionnaire (the questionnaire) to SAPL and Reliance, specifying that the responses to Section A and Sections B and C would be due on June 30 and July 16, 2004, respectively.<sup>1</sup> We received

<sup>1</sup> Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production of the foreign like product and the constructed value of the merchandise under investigation. Section E requests information on further manufacturing.

responses to Sections A–C of the questionnaire and issued supplementary questionnaires where appropriate.<sup>2</sup> On July 29, 2004, the petitioner requested that the Department revise the estimated antidumping duty margin used for purposes of initiation in this proceeding from 35.51 to 52.54 percent. On July 30, 2004, pursuant to 19 CFR 351.205(e), the petitioner made a timely request to postpone the preliminary determination. We granted this request and postponed the preliminary determination until no later than October 20, 2004. *See Notice of Postponement of Preliminary Antidumping Duty Determinations: Bottle-Grade Polyethylene Terephthalate (PET) Resin from India, Indonesia, Taiwan, and Thailand*, 69 FR 48842 (August 11, 2004).

On August 11, 2004, the petitioner alleged that sales made by SAPL in India were below the cost of production (COP). On September 1, 2004, pursuant to section 773(b) of the Act, the Department initiated a cost investigation for SAPL's Indian sales of PET Resin.

*See Memorandum to Susan Kuhbach, Senior Office Director, Re: Investigation of Polyethylene Terephthalate Resin from India: Petitioner's Allegation of Sales Below the Cost of Production for South Asia Petrochem Ltd* (September 1, 2004). On August 19, 2004, the petitioner alleged that sales made by Reliance in India were below the COP. On September 3, 2004, pursuant to section 773(b) of the Act, the Department initiated a cost investigation for Reliance's Indian sales of PET Resin. *See Memorandum to Susan Kuhbach, Senior Office Director, Re: Investigation of Polyethylene Terephthalate Resin from India: Petitioner's Allegation of Sales Below the Cost of Production for Reliance Industries Ltd* (September 3, 2004). On September 24, 2004, Reliance withdrew from this proceeding and did not submit a response to Section D of the questionnaire.

#### **Postponement of Final Determination and Extension of Provisional Measures.**

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise. In accordance with 19 CFR 351.210(e)(2), the Department requires that exporters requesting

postponement of the final determination also request an extension of the provisional measures referred to in section 733(d) of the Act from a four-month period until not more than six months.

On October 8, 2004, we received a request to postpone the final determination from SAPL. In its request, SAPL consented to the extension of provisional measures to no longer than six months. Since this preliminary determination is affirmative, the request for postponement is made by an exporter that accounts for a significant proportion of exports of the subject merchandise, and there is no compelling reason to deny the respondent's request, we have extended the deadline for issuance of the final determination until the 135th day after the date of publication of this preliminary determination in the **Federal Register** and have extended provisional measures to no longer than six months.

#### **Selection of Respondents**

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Where it is not practicable to examine all known producer/exporters of subject merchandise, section 777A(c)(2) of the Act permits the Department to investigate either: 1) a sample of exporters, producers, or types of products that is statistically valid, based on the information available at the time of selection; or 2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined.

In its petition, the petitioner identified five producers of PET resin in India. *See Petition from the petitioner for the Imposition of Antidumping and Countervailing Duties on Imports of PET resin from India* (March 24, 2004) (the petition). Additionally, on May 28, 2004, the Embassy of India in Washington, D.C., provided the Department with a list of eight Indian producers and four Indian exporters of the subject merchandise to the United States. Based on the imported quantities reported by U.S. Customs and Border Protection (CBP), we are satisfied that the record supports the conclusion that SAPL and Reliance are the largest Indian producers that exported the subject merchandise to the United States during the period of investigation (POI). *See Memorandum from Shane Subler, Trade Analyst to the File, Re: Customs and Border Protection Statistics Considered for Purpose of Respondent Selection* (May 25, 2004);

*See, also, Memorandum from Constance Handley, Program Manager to Susan Kuhbach, Senior Office Director, Re: Selection of Respondents* (May 12, 2004).

#### **Period of Investigation**

The POI is January 1, 2003, through December 31, 2003. This period corresponds to the four most recent fiscal quarters prior to the month of filing of the petition in March, 2004, and is in accordance with our regulations. *See* 19 CFR 351.204(b)(1).

#### **Scope of Investigation**

The merchandise covered by this investigation is bottle-grade polyethylene terephthalate (PET) resin, defined as having an intrinsic viscosity of at least 0.68 deciliters per gram but not more than 0.86 deciliters per gram. The scope includes bottle-grade PET resin that contains various additives introduced in the manufacturing process. The scope does not include post-consumer recycle (PCR) or post-industrial recycle (PIR) PET resin; however, included in the scope is any bottle-grade PET resin blend of virgin PET bottle-grade resin and recycled PET (RPET). Waste and scrap PET is outside the scope of the investigations. Fiber-grade PET resin, which has an intrinsic viscosity of less than 0.68 deciliters per gram, is also outside the scope of the investigation.

The merchandise subject to this investigation is properly classified under subheading 3907.60.0010 of the Harmonized Tariff Schedule of the United States (HTSUS); however, merchandise classified under HTSUS subheading 3907.60.0050 that otherwise meets the written description of the scope is also subject to these investigations. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

#### **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. *See Initiation Notice; See, also, Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997). We did not receive any scope comments from interested parties within the comment period.

<sup>2</sup> *See Facts Available* section of this notice.

### Use of Facts Otherwise Available

Sections 776(a)(2)(A), (B), (C), and (D) of the Act provide that the Department shall use facts available when a party withholds information that has been requested by the administering authority under this subtitle; does not provide the Department with information by the established deadline or in the form and manner requested by the Department; significantly impedes a proceeding; or provides such information but the information cannot be verified. In addition, section 776(b) of the Act provides that, if the Department finds that an interested party "has failed to cooperate by not acting to the best of its ability to comply with a request for information," the Department may use information that is adverse to the interests of that party as facts otherwise available in selecting from among the facts available. Such adverse inferences may include reliance on information derived from: (1) the petition; (2) a final determination in the investigation under this title; (3) any previous review under section 751 or determination under 753; or (4) any other information placed on the record. See 19 CFR 351.308(c). Adverse inferences are appropriate "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See *Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103-316, at 870 (1994) (SAA)*. Furthermore, "affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference." See *Antidumping Countervailing Duties: Final Rule, 62 FR 27296, 27340 (May 19, 1997)*.

Reliance withdrew from this proceeding on September 24, 2004. See *Letter from Reliance to the Department, Re: Reliance Industries Limited's Notice of Withdrawal from the Investigation and Request for Destruction of Business Proprietary Information* (September 22, 2004) and requested the destruction of its business proprietary information. Consequently, Reliance failed to submit a response to the Section D questionnaire. We find that the application of adverse facts available is appropriate because Reliance withdrew from this investigation and failed to cooperate to the best of its ability.

Where the Department applies adverse facts available because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the Department to rely on information

derived from the petition, a final determination, a previous administrative review, or other information placed on the record. See 19 CFR 351.308(c); SAA at 829-831.

Here, the Department is relying on information provided in the petition and revised customs value data submitted by the petitioner on July 29, 2004, for purposes of applying adverse facts available. At the time of the initiation, the Department reviewed all the data used by the petitioner to calculate the estimated dumping margin. We found that the margin in the petition was appropriately calculated and supported by adequate evidence in accordance with the statutory requirements for initiation. See *Initiation Notice*.

However, on July 29, 2004, the petitioner submitted revised statistics and requested that the Department amend the estimated antidumping duty margin for India in this proceeding from 35.51 to 52.54 percent. See *Letter from the petitioner to the Department, Re: Request to Revise and Correct the Estimated Dumping Margin for India by Amendment* (July 29, 2004) (July 29, 2004, submission). In that submission, the petitioner demonstrated that the 2003 USITC Dataweb<sup>3</sup> information, which was used to calculate the average unit values (AUVs) contained in the petition, contained erroneous customs value for imports of the subject merchandise into the United States from India. In a letter dated June 16, 2004, which the petitioner appended to its July 29, 2004, submission, the Foreign Trade Division Economics and Statistics Administration of the Department's U.S. Census provided corrected statistics for the month of October 2003. The revised statistics show that the CBP value for Indian PET resin under the HTSUS 3907.60.0010 for the month of October 2003 was overstated by \$3,600,000.

The petitioner revised the AUV worksheet from the petition to incorporate the revised statistics, demonstrating that a correction of the customs value data reduces the average U.S. customs value for 2003 from \$0.41 to \$0.3646 per pound. This revision raises the estimated dumping margin from 35.51 to 52.54 percent. Based on our review of the revised statistics, we preliminarily determine that it is more appropriate to use the updated statistics in determining the adverse facts available rate. See *Corroboration Memorandum*.

When using facts otherwise available, section 776(c) of the Act provides that,

<sup>3</sup> Customs Values, USITC available at <http://www.theDataweb.org>.

when the Department relies on secondary information (such as the petition), the Department must, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. The SAA clarifies that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. See SAA at 870. The Department's regulations state that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. See 19 CFR 351.308(d); See, also, SAA at 870. As discussed in the *Memorandum from Susan Kuhbach, Senior Office Director to Jeffrey May, Deputy Assistant Secretary, Re: Corroboration of Data Contained in the Petition for Assigning Facts Available Rate* (October 20, 2004) (*Corroboration Memorandum*), we found that the margin of 52.54 percent has probative value. Accordingly, we find that the highest margin, based on the petition information and adjusted as described in the *Corroboration Memorandum*, of 52.24 percent is corroborated within the meaning of section 776(c) of the Act.

### Product Comparisons

In accordance with section 771(16) of the Act, all products produced by the respondent covered by the description in the *Scope of Investigation* section, above, and sold in India during the POI, are considered to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We have relied on four criteria to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product: intrinsic viscosity, blend, copolymer/homopolymer, and additives. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed above.

### Date of Sale

In its questionnaire responses, SAPL reported home market and U.S. sales using invoice date as the date of sale. SAPL reported that the date of invoice is the date of the sale as that is the point in time when all material terms are final. Based on the description of the sales process provided by SAPL, we have used invoice date as the date of sale for all sales. See 19 CFR 351.401(i).

## Fair Value Comparisons

To determine whether sales of PET resin from India were made in the United States at LTFV, we compared the export price (EP) to the normal value (NV), as described in the *Export Price and Normal Value* sections of this notice. In accordance with section 777A(d)(1)(A)(I) of the Act, we calculated weighted-average EPs. We compared these to weighted-average home market prices in India.

## Export Price

Section 772(a) of the Act defines EP as the price at which the subject merchandise is first sold before the date of importation by the producer or exporter outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection 722(c) of the Act. We found that SAPL made EP sales during the POI. These sales are properly classified as EP sales because they were made outside the United States by the exporter or producer to unaffiliated customers in the United States prior to the date of importation, and use of constructed export price is not otherwise indicated. We calculated SAPL's EP, based on the packed prices charged to the first unaffiliated customer in the United States. See *SAPL response to section B of the questionnaire* (July 30, 2004).

In accordance with section 772(c)(2) of the Act, we made deductions from the starting price for movement expenses where appropriate. These included inland freight, insurance expenses, international freight, and brokerage and handling fees.

## Normal Value

### A. Selection of Comparison Markets

Section 772(a)(1) of the Act directs that NV be based on the price at which the foreign like product is sold in the home market, provided that the merchandise is sold in sufficient quantities (or value, if quantity is inappropriate), that the time of the sales reasonably corresponds to the time of the sale used to determine EP, and that there is no particular market situation that prevents a proper comparison with EP. The statute contemplates that quantities (or value) will normally be considered insufficient if they are less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States.

We found that SAPL had a viable home market for PET resin. As such, SAPL submitted home market sales data for purposes of calculating NV. In

deriving NV, we made adjustments as detailed in the *Calculation of Normal Value Based on Home Market Prices* section, below.

### B. Cost of Production Analysis

Based on allegations contained in the petitioner's sales-below-cost allegation on behalf of SAPL, and in accordance with section 773(b)(2)(A)(I) of the Act, we found reasonable grounds to believe or suspect that PET resin sales by SAPL were made in India at prices below the cost of production (COP). See *Letter from the petitioner, Re: South Asia Petrochem Limited Sales Below Cost Allegation* (August 11, 2004); See, also, *Memorandum from Daniel O'Brien, Trade Analyst to Susan Kubach, Senior Office Director, Re: Petitioner's Allegation of Sales Below the Cost of Production for SAPL* (September 1, 2004). As a result, the Department has conducted an investigation to determine whether SAPL made home market sales at prices below their respective COPs during the POI within the meaning of section 773(b) of the Act. We conducted the COP analysis described below.

#### 1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for the home market general administrative (G&A) expenses, including interest expenses, and packing expenses. We relied on the COP data submitted by SAPL in its cost questionnaire response. See *SAPL response to section D of the questionnaire* (September 28, 2004).

#### 2. Test of Home Market Sales Prices

We compared the weighted-average COP for SAPL to its home-market sales prices of the foreign like product, as required under section 773(b) of the Act, to determine whether these sales had been made at prices below the COP within an extended period of time (i.e., a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. On a model-specific basis, we compared the COP to the home market prices, less any applicable movement charges, discounts, rebates, and direct and indirect selling expenses (which were also deducted from COP).

#### 3. Results of the COP Test

Where 20 percent or more of a respondent's sales of a given product during the POI were at prices less than the COP, we determined such sales to have been made in "substantial

quantities" within an extended period of time in accordance with section 773(b)(2)(B) of the Act. In such cases, because we compared prices to POI average costs, pursuant to section 773(b)(2)(D) of the Act, we also determined that such sales were not made at prices that would permit recovery of all costs within a reasonable period of time. Therefore, we disregarded home-market sales for SAPL.

### C. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).

See 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. Id.; See, also, Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa, 62 FR 61731, 61732 (November 19, 1997). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (i.e., the "chain of distribution"),<sup>4</sup> including selling functions,<sup>5</sup> class of customer ("customer category"), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for EP and comparison market sales (i.e., NV based on either home market or third country prices<sup>6</sup>) we consider the starting prices before any adjustments. For CEP sales, we consider only the selling expenses reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. See *Micron Technology, Inc. v. United*

<sup>4</sup> The marketing process in the United States and home market begins with the producer and extends to the sale to the final user or customer. The chain of distribution between the two may have many or few links, and the respondent's sales occur somewhere along this chain. In performing this evaluation, we considered the respondent's narrative response to properly determine where in the chain of distribution the sale occurs.

<sup>5</sup> Selling functions associated with a particular chain of distribution help us to evaluate the level(s) of trade in a particular market. For purposes of these preliminary determination, we have organized the common selling functions into four major categories: sales process and marketing support, freight and delivery, inventory and warehousing, and quality assurance/warranty services.

<sup>6</sup> Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, G&A and profit for CV, where possible.

*States*, 243 F.3d 1301, 1314–1315 (Fed. Cir. 2001).

When the Department is unable to match U.S. sales to sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if an NV LOT is more remote from the factory than the CEP LOT and we are unable to make an LOT trade adjustment, the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

In conducting our LOT analysis for SAPL, we examined the specific types of customers, the channels of distribution, and the selling practices of the respondent. Generally, if the reported LOTs are the same, the functions and activities of the seller should be similar. Conversely, if a party reports LOTs that are different for different categories of sales, the functions and activities may be dissimilar.

Here, SAPL reported that it sells to distributors and end users in the home market, and to trading companies in the United States. SAPL reported a single LOT in the home market and has not requested an LOT adjustment. We examined the information reported by SAPL and found that home market sales to both customer categories were similar with respect to sales process, freight services, warehouse/inventory maintenance, advertising activities, technical service, and warranty service. Accordingly, we preliminarily find that SAPL had only one LOT for its home market sales.

SAPL made only EP sales to the United States during the POI. All of SAPL's EP sales were made through the same channel of distribution (*i.e.*, sales from the manufacturer to trading companies). The EP selling activities do not differ significantly from the home market selling activities. Therefore, we find that the U.S. LOT is similar to the home market LOT and an LOT adjustment is not necessary. *See* section 773(a)(7)(A) of the Act.

#### *D. Calculation of Normal Value Based on Home Market Prices*

In determining NV for SAPL, we made adjustments for any differences in

packing and deducted home market movement expenses pursuant to sections 773(a)(6)(A) and 773(a)(6)(B)(ii) of the Act. In addition, where applicable in comparison to EP transactions, we made adjustments for differences in circumstances of sale (COS) pursuant to section 773(a)(6)(C)(iii) of the Act.

We made COS adjustments for SAPL's EP transactions by deducting direct selling expenses incurred for home market sales (credit expenses, warranty expenses, and commissions) and adding U.S. direct selling expenses (credit expenses, interest expenses, bank fees, and commissions).

#### **Currency Conversions**

We made currency conversions into U.S. dollars in accordance with section 773A of the Act based on exchange rates in effect on the dates of the U.S. sale, as obtained from the Federal Reserve Bank (the Department's preferred source for exchange rates).

#### **Verification**

In accordance with section 782(I) of the Act, we intend to verify all information relied upon in making our final determination for SAPL.

#### **Suspension of Liquidation**

In accordance with section 733(d)(2) of the Act, we are directing CBP to suspend liquidation of all entries of PET resin from India, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

We are also instructing the CBP to require a cash deposit or the posting of a bond. Consistent with the Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Carbazole Violet Pigment 23 From India, 69 FR 35293 (June 24, 2004), we are instructing the CBP to require a cash deposit or posting of a bond equal to the amount by which the normal value exceeds the EP, as indicated below, less the amount of the countervailing duty determined to constitute an export subsidy in the companion countervailing duty investigation, (*i.e.*, 19.11 percent for SAPL and 29.00 percent for Reliance). Because the "All Others" rate is based on SAPL's rate, we have reduced it by the amount of SAPL's export subsidies. After this adjustment, the resulting deposit rates will be 2.12 percent for SAPL, 23.24 percent for Reliance, and 2.12 percent for "All Others." These instructions suspending liquidation will remain in effect until further notice.

The weighted-average dumping margins are provided below:

Producer/Exporter	Weighted-Average Margin (Percentage)
SAPL .....	21.23
Reliance .....	52.54
All Others .....	21.23

#### **Disclosure**

The Department will disclose its calculations in accordance with 19 CFR 351.224(b).

#### **International Trade Commission Notification**

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary affirmative determination. If the final determination in this proceeding is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of PET resin from India are materially injuring, or threaten material injury to, the U.S. industry.

#### **Public Comment**

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs on the later of 50 days after the date of publication of this notice or one week after the issuance of the verification reports. *See* 19 CFR 351.309(c)(1)(I). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days after the deadline for the submission of case briefs. *See* 19 CFR 351.309(d). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette.

In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs.

Interested parties who wish to request a hearing, or to participate in a hearing 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 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. At the hearing, oral presentations will be limited to issues raised in the briefs. *See* 19 CFR 351.310(c). If a request for a hearing is made, we will tentatively hold the hearing two days after the deadline for submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date.

The Department will make its final determination no later than 135 days after the date of publication of this preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(I)(1) of the Act.

Dated: October 20, 2004.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

[FR Doc. 04-24096 Filed 10-27-04; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-560-817]

#### Notice of Preliminary Determination of Sales at Less Than Fair Value: Bottle-Grade Polyethylene Terephthalate (PET) Resin From Indonesia

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

**SUMMARY:** We preliminarily determine that bottle-grade polyethylene terephthalate ("PET") resin from Indonesia is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended.

Interested parties are invited to comment on this preliminary determination. If this investigation proceeds normally, we will make our final determination within 75 days of this preliminary determination.

**EFFECTIVE DATE:** October 28, 2004.

**FOR FURTHER INFORMATION CONTACT:** Andrew McAllister or Scott Holland, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-1174 or (202) 482-1279, respectively.

**SUPPLEMENTARY INFORMATION:**

### Background

Since the initiation of this investigation (*Notice of Initiation of Antidumping Duty Investigations: Bottle-Grade Polyethylene Terephthalate (PET) Resin from India, Indonesia, Taiwan, and Thailand*, 69 FR 21082 (April 20, 2004) ("Initiation Notice")), the following events have occurred:

On May 10, 2004, we solicited comments from interested parties regarding the criteria to be used for model-matching purposes. We received comments on our proposed matching criteria from the United States PET Resin Producers Coalition ("the petitioner") and P.T. Indorama Synthetics Tbk ("Indorama") on May 17, and May 20, 2004, respectively.

On May 24, 2004, we asked the petitioner for clarification of its model-matching comments and its response was provided to the Department of Commerce ("the Department") on May 26, 2004. On June 9, 2004, the Department adopted the model match criteria and hierarchy for this proceeding. *See* Memorandum to Susan Kuhbach, "Selection of Model Matching Criteria for Purposes of the Antidumping Duty Questionnaire," dated June 9, 2004, which is on file in the Central Records Unit ("CRU") in room B-099 of the main Department building. On May 19, 2004, the United States International Trade Commission ("ITC") preliminarily determined that there is a reasonable indication that imports of PET resin from Indonesia are materially injuring the United States PET resin industry (*see* ITC Investigation Nos. 701-TA-439-440 and 731-TA-1077-1080 (Preliminary) 69 FR 28948 (May 19, 2004)).

On June 4, 2004, we selected the three largest producers/exporters of PET resin from Indonesia (Indorama, P.T. Polypet Karyapersada ("Polypet"), and P.T. SK Keris ("SK Keris")) as the mandatory respondents in this proceeding. For further discussion, *see* Memorandum to Susan Kuhbach, "Issuance of Questionnaire to Respondents," dated June 4, 2004 ("Respondent Selection Memorandum"), which is on file in the Department's CRU. We subsequently issued the antidumping questionnaire to Indorama, Polypet, and SK Keris on June 9, 2004.<sup>1</sup>

<sup>1</sup> Section A of the questionnaire requests general information concerning the company corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents

On June 25, 2004, the Department received a response from Polypet to section A of the Department's original questionnaire. On July 14, 2004, the Department rejected Polypet's section A response because it was improperly filed. *See* letter from Judith Wey Rudman to Polypet, dated July 14, 2004. Specifically, its submission lacked certain markings and specifications required by the Department to ensure proper filing. Furthermore, the submission was neither properly bracketed nor marked as either a public or proprietary version. The Department also noted that Polypet did not include the correct number of copies of the public and proprietary versions of the submission, and that the required certificates of service and accuracy were not correctly filed with its submission. Additionally, the submission was not served on the other interested parties in this proceeding.

The Department received the revised section A and original sections B and C of the response on July 21, 2004, but again rejected the submission due to deficiencies in the treatment of business proprietary information. *See* letter from Judith Wey Rudman to Polypet, dated July 29, 2004. First, we noted that the responses continued to be improperly bracketed under 19 CFR 351.304(b)(1) of the Department's regulations. Second, a "clear and compelling" explanation for Polypet's request to exempt certain information from disclosure under an administrative protective order ("APO") was not provided in its cover letter, as required by 19 CFR 351.304(b)(2)(i). Third, the responses did not contain a summary of bracketed information in the public version of Polypet's response, as required by 19 CFR 351.304(c)(1). Finally, Polypet did not provide the Department with a copy of the business proprietary version served on parties with APO access.

The Department received the revised sections A-C response from Polypet on August 5, 2004. On August 11, 2004, we called Polypet to explain that the August 5, 2004, submission failed to incorporate the instructions set forth in the Department's July 29, 2004, letter. *See* Memo to the File, "Telephone Conversation with Polypet," dated August 11, 2004. On August 12, 2004, the Department rejected as improperly filed Polypet's August 5, 2004, sections A-C submission. *See* letter from Julie H. Santoboni to Polypet, dated August 12,

in non-market economy cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production of the foreign like product and the constructed value of the merchandise under investigation. Section E requests information on further manufacturing.