

Therefore, in accordance with 19 CFR 351.213(d)(3), and consistent with our practice, we preliminarily determine to rescind this review. *See, e.g., Stainless Steel Bar from India; Preliminary Results of Antidumping Duty Administrative Review and New Shipper Review, and Partial Rescission of Administrative Review*, 65 FR 12209 (March 8, 2000); *Persulfates From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Administrative Review*, 65 FR 18963 (April 10, 2000).

#### Public Comment

An interested party may request a hearing within 30 days of publication of this preliminary notice. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication of this preliminary notice, or the first working day thereafter. Interested parties may submit case briefs no later than 30 days after the date of publication of this preliminary notice. *See* 19 CFR 351.309(c)(ii). Rebuttal briefs, limited to issues raised in such briefs, may be filed no later than five days after the time limit for filing the case brief 19 CFR 351.309(d). Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Further, parties submitting written comments should provide the Department with an additional copy of the public version of any such comments on diskette. The Department will issue the final notice, which will include the results of its analysis of issues raised in any such comments, or at a hearing, if requested, within 120 days of publication of this preliminary notice.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(d)(4).

Dated: April 8, 2009.

**John M. Andersen,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**A-570-901**

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

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

**SUMMARY:** On October 7, 2008, the U.S. Department of Commerce (the Department) published the preliminary results of the first administrative review of the antidumping duty order on certain lined paper products (CLPP) from the People's Republic of China (PRC). *See Certain Lined Paper Products from the People's Republic of China: Notice of Preliminary Results of the Antidumping Duty Administrative Review*, 73 FR 58540 (October 7, 2008) (*Preliminary Results*). We invited parties to comment on the Preliminary Results. This review covers the following exporters and/or producer/exporters: (1) Shanghai Lian Li Paper Products Co., Ltd. (Lian Li); (2) Hwa Fuh Plastics Co. Ltd./Li Teng Plastics (Shenzhen) Co., Ltd. (H.F. Plastics/ L.T. Plastics); (3) Leo's Quality Products Co., Ltd./Denmax Plastic Stationery Factory (Denmax/Leo's Products); and (4) the Watanabe Group (which consists of the following three companies: Watanabe Paper Products (Shanghai) Co. Ltd. (Watanabe Shanghai); Watanabe Paper Products (Linqing) Co. Ltd. (Watanabe Linqing); and Hotrock Stationery (Shenzhen) Co. Ltd. (Hotrock Shenzhen)).<sup>1</sup> We find that certain exporters and producers/exporters sold subject merchandise at prices below normal value (NV) during the period of review (POR) of April 17, 2006, through August 31, 2007. Based on our analysis of the comments received and verification findings, we have made changes to certain surrogate values and to Lian Li's margin. Therefore, the final results differ from the *Preliminary Results*.

**EFFECTIVE DATE:** April 14, 2009.

#### **FOR FURTHER INFORMATION CONTACT:**

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

<sup>1</sup> *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 72 FR 61621 (October 31, 2007).

## SUPPLEMENTARY INFORMATION:

### Background

We published the preliminary results of the first administrative review on October 7, 2008, in the **Federal Register**. *See Preliminary Results*. Since the *Preliminary Results*, the following events have occurred:

On October 2 and November 6, 2008, the Department issued two additional supplemental questionnaires to Lian Li. Lian Li submitted its responses on October 16 and November 25, 2008, respectively. In its November 25, 2008, response, Lian Li provided its sales reconciliation and the factors of production reconciliations for all three companies: Lian Li, Sentian Paper Product Co., Ltd. (Sentian), and Shanghai Miaopanfang Paper Product Co., Ltd. (MPF).<sup>2</sup> On October 27 and December 17, 2008, the Association of American School Paper Suppliers, the petitioner, submitted comments on Lian Li's October 16 and November 25, 2008, responses, respectively. On November 6, 2008, Lian Li requested a hearing. The petitioner also requested a hearing on March 6, 2009.

On December 31, 2008, the Department extended the time limit for the final results of this proceeding.<sup>3</sup> On January 9, 2009, the petitioner submitted pre-verification comments regarding Lian Li. From January 12 through 16, 2009, the Department conducted verification on Lian Li's reported sales information and on the reported factors of production (FOP) information submitted by Lian Li and its two suppliers of subject merchandise in Shanghai: Sentian and MPF. On February 26, 2009, the Department issued three verification reports with respect to Lian Li and its two suppliers.<sup>4</sup> On March 6, 2009, Lian Li and the

<sup>2</sup> On April 11, 2008, Lian Li submitted similar reconciliation information for itself, Sentian, and MPF.

<sup>3</sup> *See Certain Lined Paper Products from the People's Republic of China: Extension of Time Limits for Final Results of Antidumping Duty Administrative Review*, 73 FR 80366 (December 31, 2008).

<sup>4</sup> *See Memorandum to the File, regarding Verification of the sales and Factors of Production Responses of Lian Li Paper Products Co., Ltd. in the First Administrative Review of Certain Lined Paper Products from the People's Republic of China*, dated February 26, 2008 (Lian Li Verification Report). *See also Memorandum to the File, regarding Verification of the Factors of Production Responses of MPF in the First Administrative Review of Certain Lined Paper Products from the People's Republic of China*, dated February 26, 2008 (MPF Verification Report). *See also Memorandum to the File, regarding Verification of the Factors of Production Responses of Sentian in the First Administrative Review of Certain Lined Paper Products from the People's Republic of China*, dated February 26, 2008 (Sentian Verification Report).

petitioner filed their case briefs. On March 13, 2009, the Watanabe Group submitted its case brief. The petitioner and Lian Li submitted their rebuttal briefs on March 16, 2009. The Department conducted a hearing on March 18, 2009.

### Scope of the Antidumping Duty Order

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

Specifically excluded from the scope of this order are:

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

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

- Fly<sup>TM</sup> lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared

reflective inks and readable only by a Fly<sup>TM</sup> pen-top computer. The product must bear the valid trademark Fly<sup>TM</sup> (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

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

FiveStar®Advance™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

- FiveStar Flex™: A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by 300 denier polyester spine cover extending the entire length of the spine and bound by a 3-ring plastic fixture. The polyolefin plastic covers are of a specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). During construction, the polyester covering is sewn to the front cover face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. During construction, the polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. Each ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically positioned on the outside back cover.

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

#### Analysis of Comments Received

All issues raised in the briefs are addressed in the Issues and Decision Memorandum to Ronald K. Lorentzen, Acting Assistant Secretary for Import Administration, regarding the Final Results of the First Administrative Review of Certain Lined Paper Products from the People's Republic of China, dated April 6, 2009 (Issues and Decision Memorandum), which is hereby adopted by this notice. A list of the issues raised, all of which are in the Issues and Decision Memorandum, is attached to this notice as Appendix I.

Parties can find a complete discussion of all issues raised in the briefs and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit (CRU), room 1117 of the Department of Commerce. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at <http://ia.ita.doc.gov/>. The paper copy and electronic version of the Issues and Decision Memorandum are identical in content.

#### Use of FOP Data submitted by Sentian and MPF

At the *Preliminary Results*, the Department found that Lian Li's two suppliers, Sentian and MPF, did not provide accurate and FOP data, and that they did not act to the best of their ability in this review. This finding was based largely on statements made by these companies which lead the Department to conclude that costs recorded at the individual companies (Sentian and MPF) were not reliable. Specifically, Lian Li stated that:

"{d}uring year 2006, Sentian and MPF had two different production sites and the accountant just arbitrarily assigned distributed the sales and manufacturing costs to the two companies' accounting books. As a result, either one company's cost accounts are not complete and the calculations for usage rates based on one company's books are not accurate."

See Lian Li's April 11, 2008, supplemental response at page 12. Therefore, to be consistent with its practice in similar situations,<sup>5</sup> the Department applied adverse facts available (AFA) in the *Preliminary Results* by assigning the highest NV for any single matching control number (CONNUM) from the three producers at issue in this review, Lian Li, Sentian, and MPF, to all subject merchandise produced by Sentian and MPF. See *Preliminary Results*. This was consistent with the Department's decision in the original investigation, where the Department concluded that Sentian and MPF did not cooperate to the best of their ability with respect to a particular FOP, mixed-pulp paper consumption, and applied facts available (FA) with an adverse inference to Sentian's and MPF's paper consumption. See *Notice of Final Determination of Sales at Less*

<sup>5</sup> See *Certain Tissue Paper Products from the People's Republic of China: Final Results and Final Rescission, in Part, of Antidumping Duty Administrative Review*, 73 FR 58113 (October 6, 2008); see also *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003) (*Nippon Steel*).

*Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products from People's Republic of China*, 71 FR 53079 (September 8, 2006) (*PRC Lined Paper Investigation Final*).

In the *Preliminary Results*, the Department indicated that it would seek additional clarification from these companies regarding their accounting records. On October 16, 2009, Lian Li, Sentian and MPF made a submission in an effort to explain their accounting records. In the submission, Lian Li stated that the previous statements<sup>6</sup> mischaracterized their accounting records; they explained that because the two companies were under common ownership and control, the owners operated them on a consolidated basis. In addition, because one of the two firms, MPF, had a lower tax rate, the companies would sometimes transfer sales and costs between the two firms to lower the overall tax burden. Based on this explanation we asked Lian Li to resubmit a reconciliation between the submitted FOP data and the financial statements; this was received on November 25, 2008. Based upon the explanation and information provided in the November 25, 2008, submission, the Department decided to proceed to verification. In January 2009 the Department conducted sales and FOP verification on the information submitted by Lian Li, Sentian and MPF in Shanghai, PRC. See Lian Li Verification Report, MPF Verification Report, and Sentian Verification Report, respectively.

As stated in the Sentian and MPF Verification Reports, although the Department finds that the methodology adopted by Sentian and MPF adequately accounted for the consumption of the material inputs, the Department finds that the methodology did not accurately account for the consumption of labor and electricity. Specifically, for material transfers, the Department has concluded that Sentian and MPF's accounting books properly captured the transfers when the transfers took place. Accordingly, we have concluded that the actual consumption in Sentian's and MPF's factory was accurately recorded in the company-specific accounting books, which, in turn, was accurately reported in their submitted FOP databases. See *id.* However, at verification, we found that MPF and Sentian derived their reported consumption for labor and electricity by dividing the company-specific labor

<sup>6</sup> See Lian Li's April 11, 2008, response at page 12. See also the earlier quoted statement in this section above.

and electricity usage by the post-transferred production quantity, rather than the actual company-specific production quantity. Because the post-transferred production quantity differs from the actual production quantity for each company, the mismatch of using post-transferred production quantity and the actual usage of these two factors resulted in misreporting of consumption for labor and electricity.

Based on Lian Li's two latest responses and the Department's findings at verification, for purposes of these final results, with the exception of labor and electricity consumption (see Application of Partial Adverse Facts Available below), the Department has relied on Sentian and MPF's reported FOP databases submitted on October 16, 2008.

#### Application of Partial Adverse Facts Available

Section 776(a) of the Act provides that the Department will apply "facts otherwise available" if, *inter alia*, necessary information is not available on the record or an interested party: A) withholds information that has been requested by the Department; B) fails to provide such information within the deadlines established, or in the form or manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; C) significantly impedes a proceeding; or D) provides such information, but the information cannot be verified.

It is the Department's practice to rely on accurate information submitted by respondents to calculate dumping margins in an antidumping duty proceeding. See *PRC Wooden Bedroom Furniture*.<sup>7</sup> When the Department finds that a respondent's reported information is not reliable, the Department will resort to FA. *Id.* Specifically, in the Department's recent decision in *PRC Wooden Bedroom Furniture Final Results*, the Department concluded that a respondent's submitted data are not reliable when the data cannot be tied to reliable financial statements or a reliable financial recording system. In this case, Sentian's and MPF's reported labor and electricity usage rate cannot be tied to

the books and records of the respective companies.

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

In this case, Sentian and MPF were aware of their skewed usage rates reported for labor and electricity in their April 11, 2008, response.<sup>8</sup> After they received a partial AFA rate at the *Preliminary Results* because of their inaccurately reported FOP, the Department issued two more supplemental questionnaires. Although respondent clarified some of the reporting issues, it never attempted to correct the skewed usage rates for labor and electricity. At verification, the Department found that Sentian and MPF kept warehouse records which could be used to derive the actual production quantity for each company. Had Sentian and MPF calculated the actual, company-specific production quantity, they could have accurately calculated the labor and electricity consumption and provided it in their October 16 and November 25, 2008, responses. Therefore, the Department finds that Sentian and MPF did not act to the best of their ability with respect to its labor

and electricity consumption information. Therefore, the Department finds applying FA with an adverse inference is warranted with respect to the labor and electricity consumption for these final results. See *Nippon Steel*, 337 F.3d at 1382–83.

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

As noted above, Sentian and MPF had received a partial AFA in the *Preliminary Results* and in the original investigation and, accordingly, they should have known that they were responsible for demonstrating the reliability of their own data. The Department requested this information on numerous occasions, and Sentian and MPF were aware of the problems with the reported data but did not attempt to remedy their data. Because the Department found both Sentian and MPF were unable to substantiate their reported consumption for labor and electricity, the Department concluded that Sentian and MPF did not cooperate to the best of their ability with respect to their consumption for the reported labor and electricity. See *Nippon Steel* and *PRC Lined Paper Investigation Final*.

Section 776(b) of the Act provides that the Department may use as AFA information derived from: 1) the petition; 2) the final determination in the investigation; 3) any previous review; or 4) any other information placed on the record. The Department's practice, when selecting an AFA rate from among the possible sources of information, has been to ensure that the margin is sufficiently adverse "as to effectuate the statutory purposes of the

<sup>7</sup> See *Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, Preliminary Results of New Shipper Review and Partial Rescission of Administrative Review*, 73 FR 8273 (February 13, 2008) (*PRC Wooden Bedroom Furniture Preliminary Results*). (Unchanged in the final results *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) (*PRC Wooden Bedroom Furniture Final Results*).

<sup>8</sup> See Lian Li's April 11, 2008, supplemental questionnaire response at page 12 where it stated that as a result of the accountant arbitrarily distributing the sales and manufacturing costs to the two companies' accounting book, there are discrepancies with respect to labor and electricity.

adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.” See *Certain Steel Concrete Reinforcing Bars from Turkey; Final Results and Rescission of Antidumping Duty Administrative Review in Part*, 71 FR 65082, 65084 (November 7, 2006) (quoting *Carbon and Certain Alloy Steel Wire Rod from Brazil: Notice of Final Determination of Sales at LTFV and Final Negative Circumstances*, 67 FR 55792 (August 30, 2002)).

In order to ensure that the margin is sufficiently adverse so as to induce cooperation, the Department has applied the highest monthly consumption rate of labor and electricity reported by each company in this review to all subject merchandise produced by Sentian and MPF. This is consistent with the Department’s practice in similar situations.<sup>9</sup>

#### Corroboration of Information

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as FA. Secondary information is information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise. See SAA at 870; see also 19 CFR 351.308(c) and (d). The SAA clarifies that “corroborate” means that the Department will satisfy itself that the “secondary information to be used has probative value.” *Id.* The SAA and the Department’s regulations state that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation or review. See SAA at 870; 19 CFR 351.308(d). To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used. See *Universal Polybag Co. v. United States*, 577 F.Supp. 2d 1284 (CIT 2008); see also section 776(c) of the Act.

As stated above, the Department calculated partial AFA based on information reported by the respondents, and thus did not rely upon secondary information for purposes of labor and electricity. Therefore, corroboration is not necessary in this

review in accordance with section 776(c) of the Act.

#### Separate Rates

In proceedings involving non-market economy (NME) countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department’s policy to assign all exporters of merchandise subject to an investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. See *Final Determination of Sales at Less Than Fair Value: Sparklers From the People’s Republic of China*, 56 FR 20588 (May 6, 1991), as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People’s Republic of China*, 59 FR 22585 (May 2, 1994), and 19 CFR 351.107(d).

In the Preliminary Results, we stated that Lian Li demonstrated its eligibility for separate-rate status. For these final results, we continue to find that evidence placed on the record of this review demonstrates that Lian Li provided information that shows both a *de jure* and *de facto* absence of government control with respect to its respective exports of the merchandise under review, and, thus is eligible for separate-rate status. See *Preliminary Results* at 58545.

With respect to the three companies not selected for individual examination in this review: H.F. Plastics/ L.T. Plastics; Denmax/Leo’s Products; and the Watanabe Group (non-selected companies), we continue to grant a separate rate to these companies because they are wholly owned by individuals or companies located in a market economy. As wholly foreign-owned companies, we have no evidence indicating that they are under the control of the PRC. Therefore, a separate-rate analysis is not necessary to determine whether these companies are independent from government control. See *Preliminary Results*. See also *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People’s Republic of China*, 64 FR 71104, 71104–05 (December 20, 1999) (where the respondent was wholly foreign-owned and, thus, qualified for a separate rate).

For these three non-selected companies, the Department continues to apply the calculated weighted-average margin based on an average of the rates it calculated for the mandatory respondents, excluding any rates that

are zero, *de minimis*, or based entirely on AFA, pursuant to section 735(c)(5)(A) of the Act.<sup>10</sup> In this proceeding, there is one mandatory respondent. Accordingly, for these final results, we continue to apply the rate calculated for Lian Li, 22.35 percent, to non-selected separate entities. Entities receiving this rate are identified by name in the “Final Results of Review” section of this notice.

#### Changes since the Preliminary Results

Based on comments received from the interested parties and findings at verification, we have made the following company-specific changes to Lian Li’s margin calculation: 1) for Lian Li, the Department relied on Lian Li’s FOP database submitted on October 16, 2008, to calculate the dumping margin; 2) for Sentian and MPF, the Department relied on the companies’ FOP databases to derive the dumping margin with respect to material inputs, but as described above, the Department applied the highest monthly consumption rate of labor and electricity reported by each company in this review to all subject merchandise produced by Sentian and MPF with respect to the usage rates of labor and electricity; 3) for creamwove paper and black paperboard, the Department used the actual distance provided by Lian Li’s suppliers for these two material inputs, and thus did not apply the *Sigma* cap distance as the Department did in the *Preliminary Results*; and 4) for labor rate, the Department applied the latest labor rate issued by the Office of Policy. See “*Expected Wages of Selected NME Countries*,” available at <http://ia.ita.doc.gov/wages/index.html>.

#### Final Results of Review

We determine that the following weighted-average antidumping duty percentage margins exist for the POR:

| Exporter                                                                  | Weighted-Average Margin (Percent) |
|---------------------------------------------------------------------------|-----------------------------------|
| Shanghai Lian Li Paper Products Co., Ltd. ....                            | 22.35                             |
| Hwa Fuh Plastics Co., Ltd./ Li Teng Plastics (Shenzhen) Co., Ltd. ....    | 22.35                             |
| Leo’s Quality Products Co., Ltd./ Denmax Plastic Stationery Factory ..... | 22.35                             |

<sup>10</sup> See *PRC Wooden Bedroom Furniture Preliminary Results*. See also *PRC Wooden Bedroom Furniture Final Results*.

<sup>9</sup> See *PRC Lined Paper Investigation Final*; see also *Nippon Steel*.

| Exporter                                                                                                                                                                                             | Weighted-Average Margin (Percent) |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------|
| The Watanabe Group (consisting of the following companies)<br>Watanabe Paper Product (Shanghai) Co., Ltd.<br>Watanabe Paper Product (Linqing) Co., Ltd. Hotrock Stationery (Shenzhen) Co., Ltd. .... | 22.35                             |

For details on the calculation of the antidumping duty weighted-average margin for Lian Li, see Lian Li's Analysis Memo. A public version of this memorandum is on file in the CRU.

#### Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department will determine, and United States Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review. For assessment purposes, where possible, we calculated importer-specific assessment rates for CLPP from the PRC via *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales, in accordance with 19 CFR 351.212 (b). We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of these final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for the exporters listed above, the cash deposit rate will be equivalent to the company-specific weighted-average margin established in this review; (2) for PRC exporters who received a separate rate in a prior segment of the proceeding, but were not reviewed in this review, the cash deposit rate will continue to be the rate assigned in that segment of the proceeding; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, including those companies for which this review has been rescinded, the cash deposit rate will be the PRC-wide rate of 258.21 percent; and (4) for all non-PRC exporters of subject merchandise

which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Interested Parties

This notice also serves as the final 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 in the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This administrative review and this notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 6, 2009.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

#### Appendix I

List of Comments in the Accompanying Issues and Decision Memorandum

*Comment 1:* Whether to Apply Adverse Facts Available (AFA) in Calculating Normal Value

*Comment 2:* Whether to Apply Partial AFA for The Labor and Electricity Data Submitted by Sentian and MPF

*Comment 3:* Whether to Revise Certain Surrogate Values to Incorporate More Accurate Values and Whether to Apply Adverse Inferences with Respect to Other Values for the Final Results

*Comment 4:* Surrogate Financial Ratios

*Comment 5:* Inland Freight and Sigma Cap

*Comment 6:* The Inclusion of Graph Paper in the Review

*Comment 7:* Selection of Single Mandatory Respondent

*Comment 8:* Application of a Partial AFA Margin to Watanabe

*Comment 9:* Whether Or Not Watanabe Was Deprived of Its Full Opportunity to Participate in the Review

[FR Doc. E9-8395 Filed 4-13-09; 8:45 am]

**BILLING CODE 3510-DS-S**

#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

**RIN 0648-XF22**

#### Marine Mammals; File No. 775-1875

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

**ACTION:** Notice; receipt of application for permit amendment.

**SUMMARY:** Notice is hereby given that the NMFS Northeast Fisheries Science Center (NEFSC), Woods Hole, MA, has applied for an amendment to Scientific Research Permit No. 775-1875.

**DATES:** Written, telefaxed, or e-mail comments must be received on or before May 14, 2009.

**ADDRESSES:** The application and related documents are available for review by selecting "Records Open for Public Comment" from the Features box on the Applications and Permits for Protected Species (APPS) home page, <https://apps.nmfs.noaa.gov>, and then selecting File No. 775-1875 from the list of available applications.

These documents are also available upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713-2289; fax (301)427-2521; and Northeast Region, NMFS, 55 Great Republic Drive, Gloucester, MA 01930; phone (978)281-9300; fax (978)281-9333.

Written comments or requests for a public hearing on this application should be submitted to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate.

Comments may also be submitted by facsimile at (301)427-2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.