

thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (*e.g.*, cold-rolled, polished, *etc.*) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of the order are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to the order is currently classifiable in the Harmonized Tariff Schedule of the United States ("HTSUS") at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.05, 7219.12.00.06, 7219.12.00.20, 7219.12.00.21, 7219.12.00.25, 7219.12.00.26, 7219.12.00.50, 7219.12.00.51, 7219.12.00.55, 7219.12.00.56, 7219.12.00.65, 7219.12.00.66, 7219.12.00.70, 7219.12.00.71, 7219.12.00.80, 7219.12.00.81, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the scope of the order remains dispositive.

#### Analysis of the Comments Received

All issues raised in this review are addressed in the Issues and Decision Memorandum ("Decision Memorandum") from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Deputy Assistant Secretary for Import Administration, dated concurrently with this notice, which is hereby adopted by this notice. Parties can find this public memorandum in the Central Records Unit, Room 7046 of the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the Decision Memorandum are identical in content.

#### Preliminary Results of Review

The Department preliminarily determines that revocation of the CVD order will lead to continuation or recurrence of a countervailable subsidy.

The net countervailable subsidy likely to prevail if the order were revoked is zero percent for AMS and all other companies.

Interested parties may submit case briefs no later than 50 days after the date of publication of these preliminary results, in accordance with 19 CFR 351.309(c)(1)(i). Any interested party may request a hearing within 30 days of publication of this notice in accordance with 19 CFR 351.310(c). Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than five days after the time limit for filing case briefs in accordance with 19 CFR 351.309(d). A hearing, if requested, will be held two days after the date the rebuttal briefs are due. The Department will issue a notice of final results of this sunset review, which will include the results of its analysis of issues raised in any such comments, no later than 330 days after the date of publication of the notice of initiation (*i.e.*, by April 28, 2011) in accordance with 19 CFR 351.218(f)(3).

We are issuing and publishing the results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: December 15, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-916]

#### Laminated Woven Sacks From the People's Republic of China: Preliminary Results of the Second Administrative Review

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

**SUMMARY:** The Department of Commerce ("the Department") is currently conducting an administrative review of the antidumping duty order on laminated woven sacks ("LWS") from the People's Republic of China ("PRC") covering the period August 1, 2009, through July 31, 2010. This review covers imports of subject merchandise from one manufacturer/exporter: Zibo Aifudi Plastic Packaging Co., Ltd. ("Aifudi"). 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 all appropriate

entries in accordance with these results. We invite interested parties to comment on these preliminary review results and will issue the final review results no later than 120 days from the date of publication of this notice.

**DATES:** *Effective Date:* December 27, 2010.

**FOR FURTHER INFORMATION CONTACT:** Jamie Blair-Walker, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482-2615.

#### SUPPLEMENTARY INFORMATION:

##### Background

On August 7, 2008, the Department published in the **Federal Register** the antidumping duty order on LWS from the PRC. *See Notice of Antidumping Duty Order: Laminated Woven Sacks From the People's Republic of China*, 73 FR 45941 (August 7, 2008).

On August 26, 2010 and August 31, 2010, respectively, Aifudi and Petitioners<sup>1</sup> submitted a timely request for an administrative review. On September 29, 2010, in response to Aifudi's and Petitioners' requests and in accordance with section 751(a)(1) of the Tariff Act of 1930, as amended (the "Act"), and 19 CFR 351.213(b), the Department initiated the second administrative review of LWS from the PRC. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 75 FR 60076, 60081 (September 29, 2010) ("Initiation Notice").

On October 6, 2010, the Department issued its standard non-market economy ("NME") questionnaire to Aifudi.<sup>2</sup> Aifudi did not submit a response to the questionnaire. On November 3, 2010, Aifudi submitted a letter to the Department notifying the Department of its intent to withdraw and its refusal to further participate in this instant administrative review.<sup>3</sup>

##### Period of Review

The period of review ("POR") is August 1, 2009, through July 31, 2010.

<sup>1</sup> Petitioners are the Laminated Woven Sacks Committee and its individual members, Coating Excellence International, LLC and Polytex Fibers Corporation.

<sup>2</sup> The original deadlines for the NME questionnaire were October 27, 2010 for the Section A response and November 12, 2010 for the Section C & D responses.

<sup>3</sup> *See* Letter from Aifudi entitled Laminated Woven Sacks from China; Withdrawal from Proceeding, dated November 3, 2010.

## Scope of the Order

The merchandise covered by the order is laminated woven sacks. Laminated woven sacks are bags or sacks consisting of one or more plies of fabric consisting of woven polypropylene strip and/or woven polyethylene strip, regardless of the width of the strip; with or without an extrusion coating of polypropylene and/or polyethylene on one or both sides of the fabric; laminated by any method either to an exterior ply of plastic film such as biaxially-oriented polypropylene ("BOPP") or to an exterior ply of paper that is suitable for high quality print graphics;<sup>4</sup> printed with three colors or more in register; with or without lining; whether or not closed on one end; whether or not in roll form (including sheets, lay-flat tubing, and sleeves); with or without handles; with or without special closing features; not exceeding one kilogram in weight. Laminated woven sacks are typically used for retail packaging of consumer goods such as pet foods and bird seed.

Effective July 1, 2007, laminated woven sacks are classifiable under Harmonized Tariff Schedule of the United States ("HTSUS") subheadings 6305.33.0050 and 6305.33.0080. Laminated woven sacks were previously classifiable under HTSUS subheading 6305.33.0020. If entered with plastic coating on both sides of the fabric consisting of woven polypropylene strip and/or woven polyethylene strip, laminated woven sacks may be classifiable under HTSUS subheadings 3923.21.0080, 3923.21.0095, and 3923.29.0000. If entered not closed on one end or in roll form (including sheets, lay-flat tubing, and sleeves), laminated woven sacks may be classifiable under other HTSUS subheadings including 3917.39.0050, 3921.90.1100, 3921.90.1500, and 5903.90.2500. If the polypropylene strips and/or polyethylene strips making up the fabric measure more than 5 millimeters in width, laminated woven sacks may be classifiable under other HTSUS subheadings including 4601.99.0500, 4601.99.9000, and 4602.90.0000. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

<sup>4</sup> "Paper suitable for high quality print graphics," as used herein, means paper having an ISO brightness of 82 or higher and a Sheffield Smoothness of 250 or less. Coated free sheet is an example of a paper suitable for high quality print graphics.

## Non-Market Economy Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. Pursuant to 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 *Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review*, 71 FR 7013 (February 10, 2006). None of the parties to this proceeding have contested such treatment.

## Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty deposit rate (*i.e.*, a PRC-wide rate).

As Aifudi did not submit any information on the record regarding its status, we preliminarily determine that Aifudi has not demonstrated its eligibility for separate-rate status in this administrative review. Since Aifudi failed to provide information requested by the Department that is necessary to analyze whether it qualified for a separate rate, Aifudi has failed to rebut the presumption of PRC government control. Therefore, we have preliminarily determined that Aifudi does not qualify for a separate rate, but rather should be treated as part of the PRC-wide entity.

## Use of Facts Available and Adverse Facts Available ("AFA")

Section 776(a) of the Act provides that the Department shall apply "facts otherwise available" if: (1) Necessary information is not on the record, or (2) an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and 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 information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the

deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate.

Section 782(e) of the Act provides that the Department "shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority" if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information supplied if it can do so without undue difficulties.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Such an adverse inference may include reliance on information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

## Application of Adverse Facts Available to the PRC-Wide Entity

In the *Initiation Notice*, the Department stated that "If the above named company does not qualify for a separate rate, all other exporters of laminated woven sacks from the PRC who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part." See *Initiation Notice*, 75 FR at 60081. As noted above, Aifudi, for which this review was initiated, has not qualified for a separate rate. As a result, the PRC-wide entity is now under review.<sup>5</sup>

The company that we are treating as part of the PRC-wide entity, Aifudi, did not respond to the Department's antidumping duty questionnaire. Thus, we preliminarily determine that this company withheld information requested by the Department. Furthermore, this company's refusal to participate in the review significantly impeded the proceeding and prevented the Department from determining its dumping margin.

<sup>5</sup> See *Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Intent To Rescind Review in Part*, 75 FR 5952, 5959 (February 5, 2010).

Thus, pursuant to section 776(a)(2)(A) and (C) of the Act (withholds requested information and significantly impedes a proceeding), the Department has preliminarily based the dumping margin of the PRC-wide entity on the facts otherwise available on the record. Furthermore, the company's refusal to provide the requested information constitutes circumstances under which it is reasonable to conclude that less than full cooperation has been shown. See *Nippon Steel Corporation v. United States*, 337 F.3d 1373, 1383 (Fed. Cir. 2003) where the Court of Appeals for the Federal Circuit ("Federal Circuit") provided an explanation of the "failure to act to the best of its ability" standard, noting that the Department need not show intentional conduct existed on the part of the respondent, but merely that a "failure to cooperate to the best of a respondent's ability" existed (*i.e.*, information was not provided "under circumstances in which it is reasonable to conclude that less than full cooperation has been shown"). Hence, pursuant to section 776(b) of the Act, the Department has determined that, when selecting from among the facts otherwise available, an adverse inference is warranted with respect to the PRC-wide entity.

#### AFA Rate for the PRC-Wide Entity

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) provide that the Department may rely on information derived from (1) The petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. The Department's practice is to select an AFA rate that is sufficiently adverse "as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner" and that ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully."<sup>6</sup> Specifically, the Department's practice in reviews, in selecting a rate as total AFA, is to use the highest rate on the record of the proceeding which, to the extent practicable, can be corroborated

<sup>6</sup> See *Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909, 8911 (February 23, 1998); see also *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the Seventh Administrative Review; Final Results of the Eleventh New Shipper Review*, 70 FR 69937, 69939 (November 18, 2005) and the *Statement of Administrative Action*, accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103-316 (1994) ("SAA") at 870.

(if the rate is based on secondary information).<sup>7</sup> The Court of International Trade and the Federal Circuit have affirmed decisions to select the highest margin from any prior segment of the proceeding as the AFA rate on numerous occasions.<sup>8</sup> Therefore, as AFA, the Department has preliminarily assigned the PRC-wide entity a dumping margin of 91.73 percent. This margin, which is the PRC-wide rate from the final determination of the investigation of LWS from the PRC, is the highest dumping margin on the record of any segment of this proceeding.<sup>9</sup>

#### Corroboration

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. As described in the SAA, it is the Department's practice to use secondary information from the petition, the final determination, or any previous review under section 751 of the Act concerning the subject merchandise. See SAA at 870. The Department will satisfy itself that the secondary information has probative value and, to the extent practicable, will examine the reliability and relevance of the information to be used.

The AFA rate being assigned to the PRC-wide entity (91.73 percent) is the

<sup>7</sup> See *Glycine from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 15930, 15934 (April 8, 2009), unchanged in *Glycine From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 41121 (August 14, 2009); see also *Fujian Lianfu Forestry Co., Ltd., a.k.a. Fujian Wonder Pacific Inc., et al. v. United States*, 638 F. Supp. 2d 1325, 1336 (Ct. Int'l Trade 2009) ("Commerce may, of course, begin its total AFA selection process by defaulting to the highest rate in any segment of the proceeding, but that selection must then be corroborated, to the extent practicable.");

<sup>8</sup> See *e.g.*, *NSK Ltd. v. United States*, 346 F. Supp. 2d 1312, 1335 (Ct. Int'l Trade 2004) (affirming a 73.55 percent total AFA rate, the highest available dumping margin from a different respondent in the investigation); *Kompass Food Trading International v. United States*, 24 CIT 678, 683-84 (2000) (affirming a 51.16 percent total AFA rate, the highest available dumping margin from a different, fully cooperative respondent); and *Shanghai Taoen International Trading Co., Ltd. v. United States*, 360 F. Supp. 2d 1339, 1348 (Ct. Int'l Trade 2005) (affirming a 223.01 percent total AFA rate, the highest available dumping margin from a different respondent in a previous administrative review).

<sup>9</sup> See *Laminated Woven Sacks from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 35646 (June 24, 2008) ("*LTFV Final Determination*").

highest rate assigned in any segment of this proceeding. See *LTFV Final Determination*, 73 FR at 35648. Furthermore, no information has been presented in the current review that calls into question the reliability of this information. We note that this is the highest rate from any segment of the proceeding and the rate is less than four years old. Thus, the Department finds that the information continues to be reliable.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers From Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996), the Department disregarded the highest margin in that case as adverse best information available (the predecessor to "facts available") because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin. Similarly, the Department does not apply a margin that has been judicially invalidated. See *D&L Supply Co. v. United States*, 113 F.3d 1220, 1221 (Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated).

Pursuant to section 776(c) of the Act, the Department corroborated the petition rate of 91.73 percent in the investigation by comparing the petition margin to the individual CONNUM margins calculated for Aifudi in the investigation. See Memorandum to the File from Jamie Blair-Walker regarding Corroboration of the Petition Rate, dated December 6, 2010 (placing on the record of this administrative review the Memorandum to the File from Javier Barrientos, through Alex Villanueva, Program Manager, AD/CVD Operations, Office 9: Laminated Woven Sacks from the People's Republic of China: Analysis of Zibo Aifudi Plastic packaging Co., Ltd., for the Final Determination, dated June 16, 2008). We found that since the petition margin of 91.73 percent was within the range of Aifudi's calculated CONNUM margins, the margin of 91.73 percent has probative value. As no company cooperated in this segment of the proceeding, we have no new calculated margins with which to further evaluate the 91.73 percent margin applied to the PRC-wide entity in the investigation. Accordingly, in light of the corroboration of this margin

in the investigation, we find that the rate of 91.73 percent is corroborated to the extent practicable within the meaning of section 776(c) of the Act. Moreover, as there is no information on the record of this review that demonstrates that this rate is not appropriate for use as AFA, we determine that this rate has relevance.

As the 91.73 percent rate is both reliable and relevant, we determine that it has probative value. Accordingly, we determine that the calculated rate of 91.73 percent, which is the current PRC-wide rate, is in accordance with the requirement of section 776(c) of the Act that secondary information be corroborated (*i.e.*, that it have probative value). Consequently, we have assigned this AFA rate to exports of the subject merchandise from the PRC-wide entity.

#### Preliminary Results of Review

We preliminarily determine that the following margin exists during the period August 1, 2009, through July 31, 2010:

#### LAMINATED WOVEN SACKS FROM THE PRC

| Manufacturer/exporter             | Weighted-average margin (percent) |
|-----------------------------------|-----------------------------------|
| PRC-Wide Entity <sup>10</sup> ... | 91.73                             |

#### Public Comment

The Department will disclose to parties of this proceeding the information utilized in reaching the preliminary results within ten days of the date of announcement of the preliminary results. An interested party may request a hearing within 30 days of publication of the preliminary results. See 19 CFR 351.310(c). Interested parties may submit written comments (case briefs) within 30 days of publication of the preliminary results and rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs, within five days after the time limit for filing case briefs. See 19 CFR 351.309(c)(1)(ii) and (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, the Department requests that parties submitting written comments provide the Department with a diskette containing the public version of those comments. Unless the deadline is

extended pursuant to section 751(a)(3)(A) of the Act, the Department will issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days of publication of the preliminary results. The assessment of antidumping duties on entries of merchandise covered by this review and future deposits of estimated duties shall be based on the final results of this review.

#### Assessment Rates

Upon issuance of the final results, the Department will determine, and 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 the final results of review. If these preliminary results are adopted in our final results of review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific (or customer) *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. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis*.

#### Cash Deposit Requirements

The following cash deposit requirements, when imposed, 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 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; (2) 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 91.73 percent; and (3) the cash deposit rate 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 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.

We are issuing and publishing this determination in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 20, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 2010-32475 Filed 12-23-10; 8:45 am]

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#### DEPARTMENT OF COMMERCE

#### International Trade Administration

[A-201-822]

#### Stainless Steel Sheet and Strip in Coils From Mexico; Preliminary Results of the Five-Year ("Sunset") Review of Antidumping Duty Order

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

**SUMMARY:** On June 2, 2010, the Department of Commerce ("the Department") initiated the second sunset review of the antidumping duty order on stainless steel sheet and strip ("SSSS") in coils from Mexico, pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act").

On the basis of the notice of intent to participate, and adequate substantive responses filed on behalf of the domestic and respondent interested parties, the Department is conducting a full sunset review of the antidumping duty order on SSSS in coils from Mexico, pursuant to section 751(e)(3)(B) of the Act and 19 CFR 351.218(e)(2)(i).

As a result of this sunset review, the Department preliminarily finds that revocation of the antidumping duty order with respect to SSSS in coils from Mexico would likely lead to continuation or recurrence of dumping at the levels listed below in the section entitled "Preliminary Results of Review."

<sup>10</sup> Because the mandatory respondent, Zibo Aifudi Plastic Packaging Co., Ltd., did not qualify for a separate rate, we have treated this company as part of the PRC-wide entity.