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Dated: June 13, 2006.

**Pierre V. Duy,**

*Acting Executive Secretary.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-504]

#### **Petroleum Wax Candles From the People's Republic of China: Preliminary Results of the 2004-2005 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 petroleum wax candles from the People's Republic of China ("PRC") covering the period August 1, 2004, through July 31, 2005. This review covers imports of subject merchandise from one manufacturer/exporter: Qingdao Youngson Industrial Co., Ltd. ("Youngson").

We preliminarily find that adverse facts available ("AFA") are appropriate for Youngson. 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:* June 21, 2006.

**FOR FURTHER INFORMATION CONTACT:** Alex Villanueva or Cindy Lai Robinson, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3208 or 202 482-3797, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Case History**

On August 28, 1986, the Department published in the **Federal Register** the

antidumping duty order on petroleum wax candles from the PRC. *See Antidumping Duty Order: Petroleum Wax Candles From the People's Republic of China*, 51 FR 30686 (August 28, 1986) ("*Candles Order*").

On September 28, 2005, in response to Youngson's request and in accordance with section 751(a)(1) of the Tariff Act of 1930, as amended (the "Act"), and section 351.213(b) of the Department's regulations, the Department initiated the 2004-2005 administrative review of petroleum wax candles from the PRC on one company. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 56631 (September 28, 2005).

On October 19, 2005, the Department issued an antidumping duty questionnaire to Youngson. On November 23, 2005, Youngson submitted its Section A response to the Department's antidumping duty questionnaire.<sup>1</sup> On December 9, 2005, Youngson submitted its Sections C and D questionnaire response. On December 23, 2005, the Department issued its first Section A supplemental questionnaire to Youngson, and on January 17, 2006, Youngson submitted its response. On January 24, 2006, the Department issued its first Sections C&D supplemental questionnaire to Youngson, and on February 21, 2006, Youngson submitted its response. On February 21, 2006, the Department issued a second Section A supplemental questionnaire, and on March 20, 2006, Youngson submitted its response. On March 9, 2006, the Department issued a second Sections C&D supplemental questionnaire to Youngson. On March 20, 2006, Youngson requested a two-week extension to respond to the Department's March 9, 2006, supplemental questionnaire; the Department granted a one-week extension until March 30, 2006. On March 24, 2006, the Department issued its third Sections A, C, and D supplemental questionnaires to Youngson. Youngson did not submit any responses to the Department's second Sections C&D supplemental questionnaires. Additionally, Youngson did not submit responses to the Department's third Sections A, C, and D supplemental questionnaires.

On January 4, 2006, the Department issued an importer questionnaire to Youngson's importer. The Department

received the importer's response on February 9, 2006.

On February 1, 2006, the National Candle Association ("NCA"), the Petitioner, submitted its comments on Youngson's Sections A (original and supplemental), C, and D responses. On March 14, 2006, the Petitioner submitted its second set of comments on Youngson's original and supplemental Section D responses. On March 29, 2006, the Petitioner submitted its third set of comments on Youngson's responses.

On February 24, 2006, the Department provided all interested parties the opportunity to submit information pertinent to selecting a surrogate country and valuing factors of production ("FOP") for this administrative review. On March 16, 2006, Youngson requested, and the Department granted, a six-week extension of time to file its surrogate values submission. The deadline for submitting surrogate values information was extended until May 1, 2006. On March 20, 2006, the Department issued a surrogate country memorandum to all interested parties. *See Memorandum to the File "Antidumping Duty Administrative Review of Petroleum Wax Candles from the People's Republic of China: Selection of a Surrogate Country"* dated March 20, 2006, from Cindy Lai Robinson through Alex Villanueva, Program Manager, Office 9, Import Administration and James C. Doyle, Director, Office 9, Import Administration.

On March 30, 2006, the Department extended the time limit for the preliminary results of this administrative review from May 3, 2006, to June 19, 2006. *See Petroleum Wax Candles from the People's Republic of China: Extension of Time Limit for Preliminary Results of the Antidumping Duty Administrative Review*, 71 FR 16120 (March 30, 2006).

On March 30, 2006, Youngson advised the Department by telephone that it would not submit responses to the Department's letters dated March 9 and 24, 2006. Furthermore, Youngson stated that it was withdrawing from the instant proceeding. *See Memorandum to the File from Cindy Robinson, Case Analyst, 7th Administrative Review of the Antidumping Duty Order on Petroleum Wax Candles from the People's Republic of China: Regarding Telephone Call with Counsel to Qingdao Youngson Industrial Co., Ltd.*

("Youngson"), dated March 30, 2006. On March 31, 2006, Youngson filed a letter withdrawing its request for an administrative review. Youngson did

<sup>1</sup> Section A (Organization, Accounting Practices, Markets and Merchandise), C (Sales to the United States), D (Factors of Production), E (Cost of Further Manufacturing Performed in the United States) and Sales and Factors of Production Reconciliations.

not reply to the Department's third supplemental questionnaire.

#### Period of Review

The POR covers August 1, 2004, through July 31, 2005.

#### Scope of the Order

The products covered by *Candles Order* are certain scented or unscented petroleum wax candles made from petroleum wax and having fiber or paper-cored wicks. They are sold in the following shapes: Tapers, spirals, and straight-sided dinner candles; round, columns, pillars, votives; and various wax-filled containers. The products were classified under the Tariff Schedules of the United States ("TSUS") 755.25, Candles and Tapers. The product covered are currently classified under the Harmonized Tariff Schedule of the United States ("HTSUS") item 3406.00.00. Although the HTSUS subheading is provided for convenience purposes, our written description remains dispositive. See *Candles Order* and *Notice of Final Results of the Antidumping Duty New Shipper Review: Petroleum Wax Candles from the People's Republic of China*, 69 FR 77990 (December 29, 2004).

#### Youngson's Request for Withdrawal of Administrative Review

As noted above, Youngson submitted a letter to the Department withdrawing its request for an administrative review on March 31, 2006. Pursuant to 19 CFR 351.213(d)(1), "the Secretary will rescind an administrative review under this section, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. The Secretary may extend this time limit if the Secretary decides that it is reasonable to do so." The 90-day deadline for withdrawing from this administrative review expired on December 28, 2005. Therefore, Youngson's request to withdraw from the administrative review was submitted 94 days after the deadline established by the Department.

During the course of conducting this review, the Department reviewed Youngson's submissions and prepared and sent questionnaires to Youngson and Youngson's importer. As a result of Youngson's deficient and/or incomplete questionnaire responses, the Department sent three supplemental questionnaires for each section of the Department's questionnaire in an attempt to gather necessary information from Youngson. Although Youngson submitted two Section A and the first

Sections C&D supplemental questionnaire responses, Youngson did not submit the second Sections C&D supplemental questionnaire responses or the third Sections A, C&D supplemental questionnaire responses. Because of Youngson's supplemental questionnaire responses, the Department had also extended the preliminary results and selected a surrogate country. The Department expended considerable effort and resources in its analysis of Youngson, prior to its late withdrawal during an advanced stage of the review. Therefore, the Department is not rescinding the review of the *Candles Order* with respect to Youngson. This is consistent with past Department practice. See *Antifriction Bearings and Parts Thereof from France, Germany, Italy, Japan, Singapore, and the United Kingdom: Preliminary Results of Antidumping Duty Administrative Reviews, Partial Rescission of Administrative Reviews, Notice of Intent to Rescind Administrative Reviews, And Notice of Intent to Revoke Order in Part*, 69 FR 5950 (February 9, 2004) ("Although we have accepted untimely withdrawals of requests for review elsewhere, the circumstances surrounding the review of INA<sup>2</sup> are different from other situations \* \* \* we had expended effort and resources in our analysis of INA prior to the untimely withdrawal such that we were quite advanced in the review"). See, also, *Antifriction Bearings and Parts Thereof From France, Germany, Italy, Japan, Singapore, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews, Rescission of Administrative Reviews in Part, and Determination To Revoke Order in Part*, 69 FR 55574 (September 15, 2004) (the Department's decision remained unchanged in the final results).

#### Separate Rates

The Department has treated the PRC as a non-market economy ("NME") country in all previous antidumping cases. See *Brake Rotors From the People's Republic of China: Final Results of the Twelfth New Shipper Review*, 71 FR 4112 (January 25, 2006). In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. We have no evidence suggesting that this determination should be changed. Therefore, we treated the PRC as an NME country for purposes of this

<sup>2</sup> A ball bearings company in Germany, INA-Schaeffler KG (INA).

review and calculated normal value ("NV") by valuing the FOPs in a surrogate country.

It is the Department's policy to assign all exporters of the merchandise subject to reviews that are located in NME countries, a single antidumping duty rate unless an exporter can demonstrate an absence of governmental control, both in law (*de jure*) and in fact (*de facto*), with respect to its export activities. To establish whether an exporter is sufficiently independent of governmental control to be entitled to a separate rate, the Department analyzes the exporter using the criteria established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("Sparklers"), as amplified in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) ("Silicon Carbide"). Under the separate rates criteria established in these cases, the Department assigns separate rates to NME exporters only if they can demonstrate the absence of both *de jure* and *de facto* governmental control over their export activities.

Because Youngson withdrew from the current administrative review with critical data potentially relevant to separate rates still outstanding, the Department was prevented from conducting a thorough separate rates analysis or from verifying Youngson's information. Therefore, we find that Youngson has not demonstrated that it is entitled to a separate rate, and it is deemed to be included in the PRC-wide entity and will be assigned a single margin as discussed below.

#### Application of Adverse Facts Available ("AFA")

Section 776(a)(2) of the Act provides that, if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested, subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Furthermore, section 776(b) of the Act states 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, "in

reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available." See also Statement of Administrative Action ("SAA") accompanying the Uruguay Round Agreements Act ("URAA"), H.R. Rep. No. 103-316 at 870 (1994).

Despite the Department having issued two supplemental Sections A, C&D questionnaires, significant questions affecting separate rates and the margin calculation remain. For example, Youngson failed to provide clarification on its relationship with a "start-up company," which Youngson claimed never received a business license and was owned by someone who later became an officer of Youngson. The Department requested that Youngson clarify whether the start-up company is the predecessor of Youngson in the Department's first and second Section A supplemental questionnaires.

Information regarding Youngson's relationship with this start-up company potentially affects Youngson's U.S. sales, factors of production and separate rates. Additionally, Youngson failed to provide the information in the manner requested. Finally, Youngson's actions have impeded the administrative review procedures such that a verification of Youngson's sales, cost and separate rates information could not be performed. Therefore, the Department has no choice but to rely on the facts otherwise available in order to determine a margin for Youngson, pursuant to section 776(a)(2) of the Act. See *Stainless Steel Sheet and Strip in Coils From Japan: Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 18369 (April 11, 2005), ("because this company refused to participate in this administrative review, we find that, \* \* \* the use of total facts available is appropriate") and *Notice of Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances: Wax and Wax/Resin Thermal Transfer Ribbons From Japan*, 68 FR 71072 (December 22, 2003), ("Since UC and DNP withheld information requested by the Department, the Department has no choice but to rely on the facts otherwise available in order to determine a margin for these parties"). As facts available, we find Youngson is not separate from the PRC-wide entity.

In applying facts otherwise available, section 776(b) of the Act states that if an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the

International Trade Commission, the administering authority or the Commission, in reaching the applicable determination under section 776(b) of the Act, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available. In the instant proceeding, we find it appropriate to use an inference that is adverse to the interests of Youngson in selecting from among the facts otherwise available. By withdrawing from this administrative review 94 days after the Department's established deadline rather than submitting a response to the Department's March 9 and 24, 2006, supplemental questionnaires, Youngson has failed to cooperate to the best of its ability in this proceeding. In addition, because we have determined that Youngson is not entitled to a separate rate and is part of the PRC-wide entity, the PRC-wide entity is under review. As the PRC-wide entity, in this instance, was uncooperative, we have determined an antidumping duty margin for it based on total AFA pursuant to section 776(b) of the Act. See e.g., *Certain Cased Pencils from the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 48612 (July 25, 2002). See, also, *Porcelain-on-Steel Cooking Ware from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review*, 71 FR 24641 (April 26, 2006). As a result, Youngson receives the 108.3 percent, the PRC-wide entity rate. See the "Corroboration" section below for a discussion of the probative value of the PRC-wide 108.30 percent rate.

#### **Corroboration of AFA Rate for Youngson**

Section 776(c) of the Act requires that the Department corroborate, to the extent practicable, a figure which it applies as facts available. To be considered corroborated, information must be found to be both reliable and relevant. We are applying as AFA the PRC-wide rate, which is the highest rate from any segment of this administrative proceeding.

The information upon which the AFA rate being assigned to Youngson (the PRC-wide rate of 108.30 percent) is based on the highest rate in this proceeding, a rate calculated in the 2001-2002 administrative review. See *Amended Notice of Final Results of the Antidumping Duty Administrative Review: Petroleum Wax Candles from the People's Republic of China ("Amended Final")* 69 FR 20858 (April 19, 2004). For purposes of

corroboration, the Department will consider whether that margin is both reliable and relevant. The AFA rate we are applying for the current review was corroborated in the most recently completed new shipper review subsequent to the *Amended Final*. See *Notice of Final Results of the Antidumping Duty New Shipper Review: Petroleum Wax Candles from the People's Republic of China ("2002-2003 New Shipper Review")* 69 FR 77990 (December 29, 2004). Furthermore, no information has been presented in the current review that calls into question the reliability of this information.

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 Administrative Review*, 61 FR 6812 (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 discredited. 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). The information used in calculating this margin was based on sales and production data submitted by the respondents in the 2001-2002 administrative review, together with the most appropriate surrogate value information available to the Department, chosen from submissions by the parties in the 2001-2002 administrative review, as well as gathered by the Department itself. Furthermore, the calculation of this margin was subject to comment from interested parties in the proceeding. Moreover, as there is no information on the record of this review that demonstrates that this rate is not appropriately used as AFA, we determine that this rate has relevance.

Based on our analysis as described above, we find that the margin of 108.30 percent is reliable and has relevance. As the rate is both reliable and relevant, we determine that it has probative value. Accordingly, we determine that the calculated rate of 108.30 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 (that it have probative value). Consequently, we have assigned this AFA rate to exports of the

subject merchandise from Youngson subject to the PRC-wide rate.

**Preliminary Results of Review**

We preliminarily determine that the following margin exists during the period August 1, 2004, through July 31, 2005:

PETROLEUM WAX CANDLES FROM THE PRC

Manufacturer/Exporter	Weighted-average margin (percent)
PRC-wide Entity (including Qingdao Youngson Industrial Co., Ltd.) .....	108.30

**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 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, 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 issuing the final results of the review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate appraisal instructions for the company subject to this review directly to CBP within 15 days of publication of the final results of this review. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific 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 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 (including Youngson), the cash deposit rate will be the PRC-wide rate of 108.30 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 publication of the final results of the next administrative review.

**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: June 12, 2006.

**David M. Spooner,**  
Assistant Secretary for Import Administration.

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**A-570-879**

**Polyvinyl Alcohol from the People's Republic of China: Amended Final Results of Administrative Review**

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

**SUMMARY:** On May 15, 2006, the Department of Commerce (the "Department") published *Polyvinyl Alcohol from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 71 FR 27991 (May 15, 2006) ("*Final Results*"), covering the period of review ("POR") August 11, 2003, through September 30, 2004. We are amending the *Final Results* to correct a ministerial error made in the calculation of the dumping margin for Sinopec Sichuan Vinyon Works ("SVW"), pursuant to section 751(h) of the Tariff Act of 1930, as amended ("the Act").

**EFFECTIVE DATE:** June 21, 2006.

**FOR FURTHER INFORMATION CONTACT:** Lilit Astvatsatrian, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6412.

**SUPPLEMENTARY INFORMATION:**