

page, FSIS is able to provide information to a much broader and more diverse audience.

In addition, FSIS offers an e-mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at [http://www.fsis.usda.gov/news\\_and\\_events/email\\_subscription/](http://www.fsis.usda.gov/news_and_events/email_subscription/). Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves and have the option to password protect their account.

Done at Washington, DC on September 6, 2006.

Barbara J. Masters,

Administrator.

[FR Doc. 06-7563 Filed 9-6-06; 11:26 am]

BILLING CODE 3410-DM-P

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Glenn/Colusa County Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Glenn/Colusa County Resource Advisory Committee (RAC) will meet in Willows, California. Agenda items to be covered include: (1) Introductions, (2) Approval of Minutes, (3) Public Comments, (4) Project Proposal/Possible Action, (5) General Discussion (6) Plan Schedule for the Next Year, (7) Next agenda.

**DATES:** The meeting will be held on September 18, 2006, from 1:30 p.m. and end at approximately 4:30 p.m.

**ADDRESSES:** The meeting will be held at Mendocino National Forest Supervisor's Office, 825 N. Humboldt Ave., Willows, CA 95988. Individuals wishing to speak or purpose agenda items must send their names and proposals to Tricia Christofferson, Acting DFO, 825 N. Humboldt Ave., Willows, CA 95988.

**FOR FURTHER INFORMATION CONTACT:** Bobbin Gaddini, Committee Coordinator, USDA, Mendocino National Forest, Grindstone Ranger District, 825 N. Humboldt Ave., Willows, CA 95988. (530) 934-1268; e-mail [ggaddin@fs.fed.us](mailto:ggaddin@fs.fed.us).

**SUPPLEMENTARY INFORMATION:** The meeting is open to the public. Committee discussion is limited to Forest Service staff and Committee members. However, persons who wish to bring matters to the attention of the Committee may file written statements

with the Committee staff before or after the meeting. Public input sessions will be provided and individuals who made written requests by September 15, 2006 will have the opportunity to address the committee at those sessions.

Dated: August 31, 2006.

Paul Montgomery,

Acting Designated Federal Official.

[FR Doc. 06-7494 Filed 9-7-06; 8:45 am]

BILLING CODE 3410-11-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-901]

#### Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China

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

**DATES:** *Effective Date:* September 8, 2006.

**SUMMARY:** We determine that imports of certain lined paper products ("CLPP") from the People's Republic of China ("PRC") are being, or are likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 735 of the Tariff Act of 1930, as amended ("the Act"). The estimated margins of sales at LTFV are shown in the "Final Determination" section of this notice. Moreover, we determine that critical circumstances exist with regard to certain imports of CLPP from the PRC. See the "Critical Circumstances" section below.

**FOR FURTHER INFORMATION CONTACT:** Marin Weaver or Frances Veith, 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) 482-2336 or 482-4295, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Case History

On April 17, 2006, the Department published in the **Federal Register** ("FR") the preliminary determination that CLPP from the PRC are being, or are likely to be, sold in the United States at LTFV, as provided in section 733 of the Act, covering three exporters and producers as mandatory respondents <sup>1</sup>

<sup>1</sup> (1) Watanabe Paper Product (Shanghai) Co., Ltd. ("Watanabe Shanghai"); Hotrock Stationery (Shenzhen) Co. ("Watanabe Shenzhen"); and

and 27 separate-rate respondents.<sup>2</sup> See *Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People's Republic of China*. 71 FR 16965 (April 17, 2006) ("Preliminary Determination"). Since the publication of the *Preliminary Determination* the following events have occurred.

On April 13, 2006, we sent a separate-rate verification agenda to separate-rate applicants, Planet International. On April 18, 2006, Planet International notified the Department of its withdrawal from the verification. On May 4, 2006, we sent a separate-rate verification agenda to a separate-rate applicant, Lansheng, and on May 8, 2006, it notified the Department of its withdrawal from the verification. From May 8 through 18, 2006, the Department conducted a sales verification of Lian Li and a factors verification of its unaffiliated producers Shanghai Sentian Paper Products Co., Ltd. ("Sentian"),

Watanabe Paper Product (Linqing) Co., Ltd. ("Watanabe Linqing"), collectively (the "Watanabe Group"); (2) Atico International (HK) Ltd. & Atico Overseas Ltd. (collectively "Atico"); and (3) Shanghai Lian Li Paper Products Co., Ltd. ("Lian Li"). On January 26, 2006, Atico submitted a letter informing the Department that it was unable to participate further in this investigation. As in the *Preliminary Determination*, we find that Atico does not merit a separate rate and will be subject to the PRC-wide entity. See *The PRC-Wide Rate and Use of Adverse Facts Available* section for further discussion.

<sup>2</sup> Anhui Light Industries International Co., Ltd. ("Anhui Light"), Changshu Changjiang Printing Co., Ltd. ("Changjiang"), Chinapack Ningbo Paper Products Co., Ltd. ("Chinapack"), Dongguan Yizhi Gao Paper Products Ltd. ("Yizhi Gao"), Essential Industries Limited ("Essential"), Fujian Hengda Group Co., Ltd. ("Hengda"), Haijing Stationery (Shanghai) Co., Ltd. ("Haijing"), Excel Sheen Limited ("Excel"), Maxleaf Stationery Ltd. ("Maxleaf"), Jiaxing Te Gao Te Paper Products Co., Ltd. ("Te Gao Te"), Linqing Silver Star Paper Products Co., Ltd. ("Linqing Silver"), MGA Entertainment (H.K.) Limited ("MGA"), Ningbo Guangbo Imports and Exports Co. Ltd. ("Ningbo"), Orient International Holding Shanghai Foreign Trade Co., Ltd. ("Orient"), Paperline Limited ("Paperline"), Planet (Hong Kong) International Company Ltd. ("Planet HK"), Planet International Company Ltd. ("Planet"), Shanghai Pudong Wenbao Paper Products Factory ("Wenbao Paper"), Shanghai Foreign Trade Enterprise Co., Ltd. ("SFTE"), Sunshine International Group (HK) Ltd. ("Sunshine"), Suzhou Industrial Park Asia Pacific Paper Converting Co., Ltd. ("Suzhou"), Suzhou Industrial Park You-You Trading Co., Ltd. ("You You Trading"), Wah Kin Stationery and Paper Product Limited ("Wah Kin"), and Yalong Paper Products (Kunshan) Co., Ltd. ("Yalong"), Shanghai Lansheng Stationery & Sporting Goods Import & Export Co., Ltd. ("Lansheng"), Yantai License Printing & Making Co., Ltd. ("Yantai"), You-You Paper Products (Suzhou) Co., Ltd. ("You-You"), Paperline Limited ("Paperline"), and Shanghai Pudong Wenbao Paper Products Factory ("Wenbao Paper"). Also, Paperline and Wenbao Paper are collectively known as ("Wenbao") and Planet and Planet Hong Kong are collectively known as ("Planet International").

and Shanghai Miaopanfang Paper Products Co., Ltd. ("MPF"). From May 29 through June 9, 2006, the Department conducted a sales and factors verification of Watanabe Linqing and Watanabe Shenzhen. See "Verification" Section below for additional information.

On June 1, 2006, the Department published in the FR the notice of amended preliminary determination to correct a ministerial error discovered with respect to the antidumping duty margin calculation for Lian Li, which also affected all companies for which the Department granted separate-rate status. We also preliminarily granted separate-rate status for You-You. See *Notice of Amended Preliminary Determination of Sales at Less than Fair Value: Certain Lined Paper Products from the People's Republic of China*, 71 FR 31159 (June 1, 2006) ("Amended Preliminary Determination").

On June 13, 2006, Watanabe, Lian Li, and Petitioner<sup>3</sup> filed surrogate value information. On June 23, 2006, Petitioner filed a rebuttal surrogate value submission.

We invited parties to comment on our *Preliminary Determination* and verification reports. Case briefs were filed with the Department on July 28, 2006, by Excel, a separate-rate respondent; on July 31, 2006, by the Watanabe Group, Lian Li, and by separate-rate respondents MGA, Maxleaf, Te Gao Te, and Wenbao; and on August 1, 2006, by Petitioner.<sup>4</sup> On August 7, 2006, Watanabe and Lian Li filed rebuttal briefs responding to issues raised in the case briefs. On August 8, 2006, Petitioner filed a rebuttal brief.<sup>5</sup> On August 9, 2006, we rejected Petitioner's rebuttal brief because it contained argument that did not constitute a rebuttal. (On August 10, 2006, Petitioner timely refiled its redacted rebuttal brief.) On August 9, 2006, Petitioner filed a rebuttal brief commenting only on issues raised in Maxleaf's brief.<sup>6</sup>

### Period of Investigation

The period of investigation is January 1, 2005, through June 30, 2005.

<sup>3</sup> The Association of American School Paper Suppliers and its individual members (MeadWestvaco Corporation; Norcom, Inc.; and Top Flight, Inc.).

<sup>4</sup> This case brief was timely because one copy was originally filed on July 31, 2006, as "bracketing not final."

<sup>5</sup> This rebuttal brief was timely because one copy was originally filed on August 7, 2006, as "bracketing not final."

<sup>6</sup> On August 4, 2006, we extended the time in which to file rebuttal to the briefs filed by Maxleaf and MGA due to a delay in the receipt of these briefs by the other parties.

### Non-Market Economy Status of the PRC

On December 22, 2005, the Watanabe Group submitted a request that the Department reevaluate the PRC's status as a non-market economy (NME) country under the U.S. antidumping law. On February 2, 2006, the Department received a submission from the PRC Ministry of Commerce ("MOFCOM") expressing support for the Watanabe Group's request.

The Department has treated the PRC as an NME country in all past antidumping duty investigations and administrative reviews. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 71 FR 29303 (May 22, 2006); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Artist Canvas from the People's Republic of China*, 71 FR 16116 (March 30, 2006); and *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China*, 70 FR 24502 (May 10, 2005). A designation as an NME country remains in effect until it is revoked by the Department. See section 771(18)(C)(i) of the Act.

The Department issued a memorandum to the file on May 15, 2006, determining that the Department shall continue to treat the PRC as an NME for purposes of the U.S. antidumping law. In the May 15 memorandum, the Department focused mainly on distortions in the banking sector. However, the Department also stated in that memorandum that it would issue a follow-up analysis concerning all six statutory factors that govern NME-country designation. Accordingly, the Department issued a memorandum to the file on August 30, 2006, providing the full underlying analysis of the May 15 decision to continue the PRC's NME designation.

### Scope of Investigation<sup>7</sup>

The scope of this investigation includes certain lined paper products, typically school supplies,<sup>8</sup> composed of or including paper that incorporates straight horizontal and/or vertical lines

<sup>7</sup> The Department has received several requests for scope clarifications from SchoolMax LLC, GEM Group Incorporated, Avenues in Leather, Inc., and ACCO Brands Corporation. The department has not addressed these requests in this final determination. However, the Department will consider the issues raised in these requests as scope requests in the event this proceeding goes to order.

<sup>8</sup> For purposes of this scope definition, the actual use or labeling of these products as school supplies or non-school supplies is not a defining characteristic.

on ten or more paper sheets,<sup>9</sup> 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 8¾ 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 petition 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 investigation 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;
- <sup>9</sup> There shall be no minimum page requirement for looseleaf filler paper.

- 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: preprinted 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,<sup>10</sup> measuring 6 inches by 9 inches; Also excluded from the scope of this investigation 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>.<sup>11</sup>

- 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>.<sup>12</sup>

- FiveStar<sup>®</sup> 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 .019 inches (within normal manufacturing tolerances) and rear cover is .028 inches (within normal manufacturing tolerances). Integral with the stitching that attaches the polyester spine covering, is caputred both ends of a 1" wide elastic fabric band. This band is located 2<sup>3</sup>/<sub>8</sub>" 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<sup>®</sup> Advance<sup>TM</sup>.<sup>13</sup>

- FiveStar Flex<sup>TM</sup>: 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 .019 inches (within normal manufacturing tolerances) and rear cover is .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<sup>TM</sup>.<sup>14</sup>

Merchandise subject to this proceeding is typically imported under headings 4810.22.5044, 4811.90.9090, 4820.10.2010, 4820.10.2020, 4820.10.2050, and 4820.10.4000 of the Harmonized Tariff Schedule of the United States (HTSUS).<sup>15</sup> The tariff classifications are provided for convenience and customs purposes; however, the written description of the scope of the proceeding is dispositive.

### Verification

As provided in section 782(i) of the Act, we verified the information submitted by two mandatory respondents: The Watanabe Group and Lian Li and two of Lian Li's suppliers, Sentian and MPF, for use in our final determination. See the Department's verification reports on the record of this investigation in the Central Records Unit ("CRU"), Room B-099 of the main Commerce Department building. For all verified companies, we used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by respondents.

### Analysis of Comments Received

All issues raised in the post-preliminary comments by parties in this investigation are addressed in the Issues and Decision Memorandum, dated August 30, 2006 ("Issues and Decision Memo"), which is hereby adopted by this notice. A list of the issues which parties raised and to which we respond in the Issues and Decision Memo is attached to this notice as an Appendix. The Issues and Decision Memo is a public document which is on file in CRU in room B-099 in the main Department building, and is accessible on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the memorandum are identical in content.

### Critical Circumstances

On November 29, 2005, Petitioner alleged that there was a reasonable basis to believe or suspect critical circumstances existed with respect to the antidumping investigation of CLPP from the PRC. In the *Preliminary Determination*, the Department found that critical circumstances existed for imports of CLPP from Changjiang,

<sup>14</sup> Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.

<sup>15</sup> During the investigation additional HTSUS headings were identified.

<sup>10</sup> "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.

<sup>11</sup> Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.

<sup>12</sup> Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.

<sup>13</sup> Products found to be bearing an invalidly licensed or used trademark are not excluded from the scope.

Hengda, Linqing Silver, SFTE, Wenbao Paper, Paperline, Wah Kin, and the PRC-wide entity. In addition, we found that critical circumstances did not exist for Anhui Light, Chinapack, Essential Industries Limited, Excel, Haijing, Te Gao Te, Lian Li, MGA, Ningbo, Orient, Planet International, Sunshine, Suzhou, You-You Trading, the Watanabe Group, and Yalong. See Memorandum to Stephen Claeys from Juanita Chen through Robert Bolling and Wendy Frankel: Lined Paper Products from the People's Republic of China: Preliminary Determination of Critical Circumstances, dated April 7, 2006 ("Prelim Critical Circumstances Memo").

Section 735(a)(3) of the Act provides that if the final determination of the Department is affirmative, then that finding shall also include a finding of whether: (A)(i) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise; or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there would be material injury by reason of such sales; and (B) There have been massive imports of the subject merchandise over a relatively short period. Section 351.206(h)(1) of the Department's regulations provides that, in determining whether imports of the subject merchandise have been "massive," the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, section 351.206(h)(2) of the Department's regulations provides that in general, an increase in imports of at least 15 percent during the "relatively short period" over the imports during an immediately preceding period of comparable duration may be considered "massive."

Based on the changes made to both the comparison and base periods and as discussed further in the Issues and Decision Memo at Comment 26, the Department has re-examined its preliminary critical circumstances finding. For the final determination, we find critical circumstances exist for Changjiang, Hengda, Linqing Silver, SFTE, Wah Kin, Maxleaf, MGA, Yantai, and the PRC-wide entity. In addition, we find critical circumstances do not exist for Anhui Light, Chinapack, Essential, Excel, Haijing, Te Gao Te, Lian Li, Ningbo, Orient, Sunshine, Suzhou, You-You Trading, the Watanabe Group, Yalong, You-You,

Wenbao Paper, and Paperline. See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary, through Wendy J. Frankel, Office Director, from Charles Riggle, Program Manager: Lined Paper Products from the People's Republic of China: Final Determination of Critical Circumstances, dated August 30, 2006.

#### Surrogate Country

In the Preliminary Determination, we stated that we had selected India as the appropriate surrogate country to use in this investigation for the following reasons: (A) India is at a level of economic development comparable to that of the PRC, and (B) India is a significant producer of comparable merchandise. Furthermore, we have reliable data from India that we can use to value the factors of production. See *Preliminary Determination* at 19699, 19700. For the final determination, we made no changes to our findings with respect to the selection of a surrogate country.

#### Affiliation

In the Preliminary Determination, based on the evidence on the record, we preliminarily found that members of the Watanabe Group are affiliated pursuant to section 771(33) of the Act. We are also treating them as a single entity for purposes of this investigation. See Memorandum to Wendy Frankel, Director, from Charles Riggle, Program Manager: Antidumping Duty Investigation of Certain Lined Paper Products from the People's Republic of China: Affiliation and Treatment of the Watanabe Group as a Single Entity, dated April 7, 2006. Since the *Preliminary Determination*, the Department has found no information that would rebut this determination. Therefore, the Department continues to find that members of the Watanabe Group are affiliated, pursuant to section 771(33) of the Act, for this final determination.

#### Separate Rates

Since the *Preliminary Determination* and the *Amended Preliminary Determination*, the Department has received additional information from Yantai, Maxleaf, and Excel, allowing the Department to determine these companies' eligibility for separate-rate status. Therefore, for purposes of this final determination, the Department is granting separate-rate status to the following companies: the Watanabe Group, Lian Li, Anhui Light, Changjiang, Chinapack, Essential, Excel, Hengda, Haijing, Te Gao Te, Linqing Silver, Maxleaf, MGA, Ningbo, Orient,

Paperline, Wenbao Paper, SFTE, Sunshine, Suzhou, You-You, You-You Trading, Wah Kin, Yalong, and Yantai. In addition, the Department attempted to conduct verifications of two separate-rate applicants, (i) Lansheng and (ii) Planet International,<sup>16</sup> both of whom withdrew from participating in verification.<sup>17</sup> For further discussion of these changes in separate rates, see Final Determination Separate Rates Memorandum: Certain Lined Paper Products from the People's Republic of China, dated August 30, 2006. Because we begin with the presumption that all companies within an NME country are subject to government control and because only the companies listed under the "Final Determination Margins" section below have overcome that presumption, we are applying a single antidumping rate—the PRC-wide rate—to all other exporters of subject merchandise from the PRC. Such companies did not demonstrate entitlement to a separate rate. See, e.g., Final Determination of Sales at Less Than Fair Value: *Synthetic Indigo from the People's Republic of China*, 65 FR 25706 (May 3, 2000). The PRC-wide rate applies to all entries of subject merchandise except for entries from the respondents which are listed in the "Final Determination Margins" section below (except as noted).

#### Changes Since the Preliminary Determination

We have made the following changes since the *Preliminary Determination*:

##### *Changes That Affect Both the Watanabe Group and Lian Li*

- Where we used domestic prices as surrogate values we based freight for inputs on the actual distance from the input supplier to the site at which the input was used. See Issues and Decision Memo at Comment 2.
- We have used the year-ended March 31, 2005, financial statements of Sundaram Multi Pap Ltd. and Shiv Ganga Paper Converters Pvt. Ltd. to value factory overhead, selling, general and administrative expenses, and profit. See Issues and Decision Memo at Comment 1.

##### *Changes for the Watanabe Group*

- Based on the information in Watanabe Linqing's minor corrections at verification, we have recalculated the

<sup>16</sup> The Department sent a verification agenda to Planet International.

<sup>17</sup> Therefore, neither of these entities has demonstrated its eligibility for separate-rate status. Accordingly, Lansheng and Planet International will be considered part of the PRC-wide entity for purposes of this final determination.

zinc wire usage rates for the necessary control numbers ("CONNUM"s) and valued this input with Indian Harmonized Tariff Schedule number 7217.20.00.<sup>18</sup> See the Watanabe Group's May 31, 2006, submission ("Watanabe Linqing Minor Corrections").

- We determined that Watanabe Linqing had unreported U.S. sales. See Decision Memo at Comment 8. We have assigned as adverse facts available ("AFA") to the Watanabe Group the initiation rate of 258.21 percent for those unreported sales.

- Based on verification findings, we are not granting the Watanabe Group a by-product offset. See Issues and Decision Memo at Comment 11.

- In their verification minor corrections, both Watanabe Shenzhen and Watanabe Linqing identified certain observations for which they had misreported shipment dates. See Watanabe Linqing Minor Corrections and the Watanabe Group's June 7, 2006, submission containing Watanabe Shenzhen's minor corrections. During the course of verification, the Department identified additional observations for which shipment date and/or payment date had been misreported. See Memorandum to the File Re: Verification of the Sales and Factors Response of Watanabe Paper Product (Linqing) Co., Ltd. in the Antidumping Investigation of Certain Lined Paper from the People's Republic of China ("Watanabe Linqing Verification Report") (July 21, 2006) and Memorandum to the File Re: Verification of the Sales and Factors Response of Hotrock Stationery (Shenzhen) Co., Ltd. in the Antidumping Duty Investigation of Certain Lined Paper Products from the People's Republic of China ("Watanabe Shenzhen Verification Report") (July 21, 2006). We have corrected these dates for the final results.

- During the course of the Watanabe Shenzhen verification we found that a billing adjustment ("BILLADJU") was misreported and we have corrected this for this final determination. See Watanabe Shenzhen Verification Report at 19.

- In the Watanabe Linqing Minor Corrections, Watanabe Linqing stated that it had misreported indirect labor ("INDLAB") hours for January. This affected one matching CONNUM which

we have corrected for this final determination.

#### *Changes for Lian Li*

- We used the Indian domestic purchase prices for creamwove paper from *Indian Printer and Publisher* ("IPP") to calculate a simple average of the available POI IPP prices reflecting the GSM weights reported by Lian Li to value Lian Li's insert paper. See Issues and Decision Memo at Comment 4.

- For Lian Li's white paperboard, white/white paperboard, and grey/white board, we used the IPP paperboard price data to calculate a simple average of the available POI IPP prices reflecting the GSM weights used by Lian Li in its production of in-scope merchandise. See Issues and Decision Memo at Comment 4.

- We used the Indian domestic purchase prices for creamwove paper from IPP to calculate a simple average of the available POI IPP prices which reflect the GSM weights used by Lian Li to value Lian Li's recycled paper. See Issues and Decision Memo at Comment 5.

- We applied AFA to Lian Li's agency sales. See Issues and Decision Memo at Comment 15.

- Consistent with the Department's practice, for Lian Li's products that have a metal cover and back, we have included in the normal value of these products a value for the metal covers and backs. We also added to the U.S. price the same value for metal covers and backs. See Issues and Decision Memo at Comment 17.

- We applied AFA to Lian Li's paper consumption for its producers, Sentian and MPF. See Issues and Decision Memo at Comment 18.

- For Lian Li's producer, MPF, we corrected electricity consumption based on a minor correction found at verification. See Issues and Decision Memo at Comment 21.

- We found that it is not appropriate to grant a by-product offset for Lian Li's producers Sentian and MPF. See Issues and Decision Memo at Comment 23.

- In the preliminary determination's SAS calculation, we inadvertently truncated the reported thread consumption to four decimal places when we converted Lian Li's submitted factors of production ("FOP") Excel worksheet database, which had the effect of setting the values to zero. For the final determination, for those products using this material input, we have corrected the Department's error and have included Lian Li's reported consumption value for thread. See Issues and Decision Memo at Comment 24

- We have treated polyethylene film as a direct material input, where Lian Li sold filler paper bound by polyethylene film or where we were able to identify multi-pack notebooks bound in the same way. See Issues and Decision Memo at Comment 25.

- In the preliminary determination's SAS calculation, we inadvertently assigned an incorrect variable name to domestic freight. We have corrected this for the final determination. See Memorandum to the File, through Charles Riggle, Program Manager, from Frances Veith, International Trade Compliance Analyst: Final Determination in the Investigation of Certain Lined Paper Products from the People's Republic of China: Calculation Memorandum, Shanghai Lian Li Paper Products Co. Ltd.

#### **The PRC-Wide Rate and Use of Adverse Facts Available**

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply "facts otherwise available" if necessary information is not on the record or 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, (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, provided 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 if it can do so without undue difficulties.

<sup>18</sup>This surrogate value was used at the Preliminary Determination to value Lian Li's zinc wire. See memorandum to Wendy J. Frankel Re: Preliminary Determination of the Investigation of Certain Lined Paper Products from the People's Republic of China: Factors-of-Production Valuation for Preliminary Determination (April 7, 2006).

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. Section 776(b) of the Act also authorizes the Department to use as AFA, information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

In selecting a rate for AFA, the Department selects a 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.” See *Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors from Taiwan*, 63 FR 8909, 8932 (February 23, 1998). It is the Department’s practice to select, as AFA, the higher of the (a) highest margin alleged in the petition, or (b) the highest calculated rate of any respondent in the investigation. See *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Quality Steel Products from the People’s Republic of China*, 65 FR 34600 (May 31, 2000), and accompanying Issues and Decision Memorandum, at “Facts Available.” We find that, because the PRC-wide entity did not respond to our request for information, it has failed to cooperate to the best of its ability. As in the Preliminary Determination, we have assigned to the PRC-wide entity a margin based on information in the petition because the margins derived from the petition are higher than the calculated margins for the selected respondents in this case.

### 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. Secondary information is defined as “[i]nformation 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 Statement of Administrative Action (“SAA”) accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong., 2d Sess. Vol. 1 at 870 (1994). Corroborate means that the Department will satisfy itself that the secondary information to be used has probative value. See SAA at 870. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information. See SAA at 869.

For the final determination, in accordance with section 776(c) of the Act, we corroborated our AFA margin using information submitted by the Watanabe Group and Lian Li. See Memorandum to the File from Marin Weaver, International Trade Compliance Analyst, through Charles Riggle, Program Manager, China/NME Group, Corroboration for the Final Determination of Certain Lined Paper Products from the People’s Republic of China, regarding the corroboration of the AFA rate. We found that the margin of 258.21 percent has probative value.

Accordingly, we find that the rate of 258.21 percent is corroborated within the meaning of section 776(c) of the Act.

In addition, because we have determined that Atico, Dongguan Yizhii Gao Paper Products Ltd. (“Dongguan”), Planet International, and Lansheng are not entitled to separate rates and are now part of the PRC-wide entity, the PRC-wide entity is now under investigation. Further, because the PRC-wide entity (including these entities) failed to provide the requested information in this investigation, the Department, pursuant to section 776(a) of the Act, has applied a dumping margin for the PRC-wide entity using the facts otherwise available on the record. Furthermore, because we have determined that the PRC-wide entity (including Atico, Dongguan, Planet International, and Lansheng) has failed to cooperate to the best of its ability, the Department has used an adverse inference in making its determination, pursuant to section 776(b) of the Act.

### Combination Rates

In the Notice of Initiation, the Department stated that it would calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. See *Initiation of Antidumping Duty Investigations: Certain Lined Paper Products From India, Indonesia, and the People’s Republic of China*, 70 FR at 58379 (October 6, 2005). See Policy Bulletin 05.1.

### Final Determination

The Department has determined that the following final percentage weighted-average dumping margins exist for the period January 1, 2005, through June 30, 2005:

#### CERTAIN LINED PAPER PRODUCTS FROM THE PRC-WEIGHTED-AVERAGE DUMPING MARGINS

Exporter	Producer	Weighted-average deposit rate
Watanabe Paper Product (Linqing) Co., Ltd .....	Watanabe Paper Product (Linqing) Co., Ltd .....	76.7
Watanabe Paper Product (Linqing) Co., Ltd .....	Hotrock Stationery (Shenzhen) Co., Ltd .....	76.7
Watanabe Paper Product (Linqing) Co., Ltd .....	Watanabe Paper Products (Shanghai) Co., Ltd .....	76.7
Hotrock Stationery (Shenzhen) Co., Ltd .....	Hotrock Stationery (Shenzhen) Co., Ltd .....	76.7
Hotrock Stationery (Shenzhen) Co., Ltd .....	Watanabe Paper Product (Linqing) Co., Ltd .....	76.7
Hotrock Stationery (Shenzhen) Co., Ltd .....	Watanabe Paper Products (Shanghai) Co., Ltd .....	76.7
Watanabe Paper Products (Shanghai) Co., Ltd .....	Watanabe Paper Products (Shanghai) Co., Ltd .....	76.7
Watanabe Paper Products (Shanghai) Co., Ltd .....	Hotrock Stationery (Shenzhen) Co., Ltd .....	76.7
Watanabe Paper Products (Shanghai) Co., Ltd .....	Watanabe Paper Product (Linqing) Co., Ltd .....	76.7
Shanghai Lian Li Paper Products Co., Ltd .....	Shanghai Lian Li Paper Products Co. Ltd .....	94.98
Shanghai Lian Li Paper Products Co., Ltd .....	Sentian Paper Products Co., Ltd .....	94.98
Shanghai Lian Li Paper Products Co., Ltd .....	Shanghai Miaopaofang Paper Products Co., Ltd .....	94.98
Shanghai Lian Li Paper Products Co., Ltd .....	Shanghai Pudong Wenbao Paper Products Co., Ltd .....	94.98
Shanghai Lian Li Paper Products Co., Ltd .....	Changshu Changjiang Printing Co., Ltd .....	94.98
Shanghai Lian Li Paper Products Co., Ltd .....	Shanghai Loutang Stationery Factory .....	94.98
Shanghai Lian Li Paper Products Co., Ltd .....	Shanghai Beijia Paper Products Co., Ltd .....	94.98
Ningbo Guangbo Imports and Exports Co., Ltd .....	Ningbo Guangbo Plastic Products Manufacture Co., Ltd .....	78.39

## CERTAIN LINED PAPER PRODUCTS FROM THE PRC-WEIGHTED-AVERAGE DUMPING MARGINS—Continued

Exporter	Producer	Weighted-average deposit rate
Yalong Paper Products (Kunshan) Co., Ltd .....	Yalong Paper Products (Kunshan) Co., Ltd .....	78.39
Suzhou Industrial Park Asia Pacific Paper Converting Co., Ltd .....	Suzhou Industrial Park Asia Pacific Paper Converting Co., Ltd .....	78.39
Sunshine International Group (HK) Ltd .....	Dongguan Shipai Tonzex Electronics Plastic Stationery Factory; .....	78.39
Sunshine International Group (HK) Ltd .....	Dongguan Kwong Wo Stationery Co., Ltd .....	78.39
Sunshine International Group (HK) Ltd .....	Hua Lian Electronics Plastic Stationery Co., Ltd .....	78.39
Suzhou Industrial Park You-You Trading Co., Ltd .....	Linqing YinXing Paper Co., Ltd .....	78.39
Suzhou Industrial Park You-You Trading Co., Ltd .....	Jiaxing Seagull Paper Products Co., Ltd .....	78.39
Suzhou Industrial Park You-You Trading Co., Ltd .....	Shenda Paper Product Factory .....	78.39
Suzhou Industrial Park You-You Trading Co., Ltd .....	Lianyi Paper Product Factory .....	78.39
Suzhou Industrial Park You-You Trading Co., Ltd .....	Changhang Paper Product Factory .....	78.39
Suzhou Industrial Park You-You Trading Co., Ltd .....	Tianlong Paper Product Factory .....	78.39
Suzhou Industrial Park You-You Trading Co., Ltd .....	Rugao PaDer Printer Co., Ltd .....	78.39
Suzhou Industrial Park You-You Trading Co., Ltd .....	Yinlong Paper Product Factory .....	78.39
You You Paper Products (Suzhou) Co., Ltd .....	You You Paper Products (Suzhou) Co., Ltd .....	78.39
Haijing Stationery (Shanghai) Co., Ltd .....	Haijing Stationery (Shanghai) Co., Ltd .....	78.39
Orient International Holding Shanghai Foreign Trade Co., Ltd ..	Yalong Paper Products Ltd (Kunshan) Co., Ltd .....	78.39
Orient International Holding Shanghai Foreign Trade Co., Ltd ..	Shanghai Cornwell Stationery Co., Ltd .....	78.39
Orient International Holding Shanghai Foreign Trade Co., Ltd ..	Yuezhou PaDer Co., Ltd .....	78.39
Orient International Holding Shanghai Foreign Trade Co., Ltd ..	Changshu Guangming Stationery Co., Ltd .....	78.39
Shanghai Foreign Trade Enterprise Co., Ltd .....	Shanghai Xin Zhi Liang Culture Products Co., Ltd .....	78.39
Shanghai Foreign Trade Enterprise Co., Ltd .....	Shangyu Zhongsheng Paper Products Co., Ltd .....	78.39
Shanghai Foreign Trade Enterprise Co., Ltd .....	Shanghai Miaoqi Paper Products Factory; .....	78.39
Shanghai Foreign Trade Enterprise Co., Ltd .....	Shanghai Xueya Stationery Co., Ltd .....	78.39
Anhui Light Industries International Co., Ltd .....	Shanghai Pudong Wenbao Paper Products Factory; .....	78.39
Anhui Light Industries International Co., Ltd .....	Foshan City Wenhai Paper Factory .....	78.39
Fujian Hengda Group Co., Ltd .....	Fujian Hengda Group Co., Ltd .....	78.39
Changshu Changjiang Printing Co., Ltd .....	Changshu Changjiang Paper Industry Co., Ltd .....	78.39
Jiaxing Te Gao Te Paper Products Co., Ltd .....	Jiaxing Te Gao Te Paper Products Co., Ltd .....	78.39
Jiaxing Te Gao Te Paper Products Co., Ltd .....	Jiaxing Seagull Paper Products Co., Ltd .....	78.39
Jiaxing Te Gao Te Paper Products Co., Ltd .....	Jiaxing Boshi Paper Products Co., Ltd .....	78.39
Chinapack Ningbo Paper Products Co., Ltd .....	Jiaxing Te Gao Te Paper Products Co., Ltd .....	78.39
Linqing Silver Star Paper Products Co., Ltd .....	Linqing Silver Star Paper Products Co., Ltd .....	78.39
Wah Kin Stationery and Paper Product Limited .....	Shenzhen Baoan Waijing Development Company .....	78.39
Shanghai Pudong Wenbao Paper Products Factory .....	Shanghai Pudong Wenbao Paper Products Factory .....	78.39
Shanghai Pudong Wenbao Paper Products Factory .....	Linqing Glistar Paper Products Co., Ltd .....	78.39
Shanghai Pudong Wenbao Paper Products Factory .....	Changshu Changjiang Printing Co., Ltd .....	78.39
Shanghai Pudong Wenbao Paper Products Factory .....	Linqing Silver Star Paper Products Co., Ltd .....	78.39
Paperline Limited .....	Shanghai Pudong Wenbao Paper Products Factory .....	78.39
Paperline Limited .....	Linqing Glistar Paper Products Co., Ltd .....	78.39
Paperline Limited .....	Changshu Changjiang Printing Co., Ltd .....	78.39
Paperline Limited .....	Linqing Silver Star Paper Products Co., Ltd .....	78.39
Paperline Limited .....	Jiaxing Te Gao Te Paper Products Co., Ltd .....	78.39
Paperline Limited .....	Yantai License Printing & Making Co., Ltd .....	78.39
Yantai License Printing & Making Co., Ltd .....	Yantai License Printing & Making Co., Ltd .....	78.39
Paperline Limited .....	Anhui Jinhua Import & Export Co., Ltd .....	78.39
Essential Industries Limited .....	Dongguan Yizhi Gao Paper Products Ltd .....	78.39
MGA Entertainment (H.K.) Limited .....	Kon Dai (Far East) Packaging Co., Ltd .....	78.39
MGA Entertainment (H.K.) Limited .....	Dong Guan Huang Giang Rong Da Printing Factory .....	78.39
MGA Entertainment (H.K.) Limited .....	Dong Guan Huang Giang Da Printing Co., Limited .....	78.39
Excel Sheen Limited .....	Dongguan Shipai Fuda Stationery Factory .....	78.39
Maxleaf Stationery Ltd .....	Maxleaf Stationery Ltd .....	78.39
PRC Entity* .....	.....	258.21

\*Including Atico, Planet International, and the companies that did not respond to the Q&V questionnaire.

## Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

## Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and

Border Protection (“CBP”) to continue to suspend liquidation of all entries of subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after April 17, 2006, the date of publication of the *Preliminary Determination*. For those companies for which we found critical circumstances to exist, we will instruct CBP to continue to suspend liquidation of all entries of subject merchandise

from the PRC entered, or withdrawn from warehouse, for consumption on or after January 17, 2006, which is 90 days prior to the date of publication of the preliminary determination. CBP shall continue to require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price as shown above. These instructions suspending liquidation will remain in effect until further notice.



## International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will determine within 45 days whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of CLPP, or sales (or the likelihood of sales) for importation, of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation. If the ITC determines that material injury, or threat of material injury does exist, but finds no critical circumstances, the Department will instruct CBP refund or cancel all securities posted prior to April 17, 2006.

## Notification Regarding APO

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act.

Dated: August 30, 2006.

**David M. Spooner,**

*Assistant Secretary, for Import Administration.*

[FR Doc. 06-7538 Filed 9-7-06; 8:45 am]

BILLING CODE 3510-DS-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 051906B]

### Taking of Marine Mammals Incidental to Specified Activities; Harbor Redevelopment Project, Moss Landing Harbor, California

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

**ACTION:** Notice of receipt of application and proposed authorization for a small take exemption; request for comments.

**SUMMARY:** NMFS has received a request from the Moss Landing Harbor District (MLHD) to take small numbers of Pacific harbor seals and California sea lions by harassment incidental to the harbor redevelopment project in Moss Landing Harbor, California. Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an authorization to MLHD to incidentally take, by harassment, small numbers of these two species of pinnipeds during the next 12 months.

**DATES:** Comments and information must be received no later than October 10, 2006.

**ADDRESSES:** Comments on the application should be addressed to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3225, or by telephoning the contact listed here. The mailbox address for providing email comments is [PR1.051906B@noaa.gov](mailto:PR1.051906B@noaa.gov). Include in the subject line of the e-mail comment the following document identifier: 051906B. Comments sent via e-mail, including all attachments, must not exceed a 10-megabyte file size. A copy of the application and Biological Assessment for the North Harbor Redevelopment Project may be obtained by writing to this address or by telephoning the contact listed here.

**FOR FURTHER INFORMATION CONTACT:** Shane Guan, NMFS, (301) 713-2289, ext 137, or Monica DeAngelis, NMFS, (562) 980-3232.

### SUPPLEMENTARY INFORMATION:

#### Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of

marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization shall be granted if NMFS finds that the taking will be small, have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and that the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival."

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as:

any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

### Summary of Request

On April 24, 2006, NMFS received a request from the Terrestrial and Aquatic Biological Resources, on behalf of MLHD, to take small numbers of Pacific harbor seals (*Phoca vitulina richardsi*) and California sea lions (*Zalophus californianus*) incidental to the North Harbor Redevelopment Project in Moss Landing Harbor, Monterey County, California.

The proposed project includes construction of a 100 ft (30.5 m) long by