

(i.e., April 1, 2008). Therefore, the Department is extending the time limit for completion of the preliminary results to not later than July 30, 2008, in accordance with section 751(a)(3)(A) of the Act.

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

Dated: March 17, 2008.

**Susan H. Kuhbach,**

*Acting Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-533-825]

#### **Amended Final Results of Countervailing Duty Administrative Review: Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India**

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

**SUMMARY:** On February 11, 2008, the Department of Commerce (the Department) published the final results of the administrative review of the countervailing duty order on polyethylene terephthalate (PET) film from India for the period January 1, 2005 through December 31, 2005. *See Polyethylene Terephthalate (PET) Film, Sheet, and Strip from India: Final Results of Countervailing Duty Administrative Review*, 73 FR 7708 (February 11, 2008). On February 12, 2008, in accordance with 19 CFR 351.224(c)(2), we received timely filed ministerial error allegations from respondent MTZ Polyfilms, Ltd. (MTZ). No other party to the proceeding filed a ministerial error allegation or rebuttal comments. Based on our analysis of the comments, the Department has revised the countervailing duty rate for MTZ. Accordingly, we are amending our final results.

**EFFECTIVE DATE:** March 21, 2008.

**FOR FURTHER INFORMATION CONTACT:** Elfi Blum or Sean Carey, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0197, or (202) 482-3964, respectively.

**SUPPLEMENTARY INFORMATION:**

#### **Scope of the Order**

For purposes of the order, the products covered are all gauges of raw, pretreated, or primed Polyethylene Terephthalate Film, Sheet and Strip, whether extruded or coextruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches thick. Imports of PET film are classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3920.62.00. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of the order is dispositive.

#### **Legal Authority**

The statute governing the correction of ministerial errors directs the Department to establish a procedure for the correction of ministerial errors in determinations within a reasonable period of time. *See* Section 751(h) of the Tariff Act of 1930 (the Act). The regulations promulgated pursuant to the statute provide procedures for the correction of ministerial errors, which allow parties to submit comments and the Department to analyze the comments and correct any ministerial errors by amendment of the determination. *See* 19 CFR 351.224(e). The definition of a ministerial error in a countervailing duty determination is contained in section 751(h) of the Act. Specifically, the Act states that a ministerial error includes "errors in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the {Secretary} considers ministerial." Thus, any issue raised by interested parties as a ministerial error which is, in fact, the result of a methodological decision by the Department will not be considered a ministerial error as it would not meet the statutory definition of the term. *See, e.g., Tianjin Mach. Imp. & Exp. Corp. v. United States*, 353 F. Supp. 2d 1294, 1304 (CIT 2004).

#### **Allegations of Ministerial Errors**

On February 12, 2008, MTZ timely filed, pursuant to 19 CFR 351.224(c)(2), an allegation that the Department made two ministerial errors in its final results of review for MTZ. First, with respect to the Union Territories Central Sales Tax (CST) program, MTZ alleges that the Department miscalculated the benefit by using the excise tax and the Education CESS, which is an excise duty, on the

excise tax paid, instead of the four percent CST not paid. We determine that this is a ministerial error that should be corrected in accordance with 19 CFR 3 51.224( e) of the Department's regulations. In the benefit calculations for Union Territories CST program, the Department erroneously based the benefit on the excise tax and the Education CESS on the excise tax paid on MTZ's purchases of the input, instead of the four percent CST not paid on the purchases of the input. We have now revised our calculations and calculated the benefit from the Union Territories CST program by calculating four percent of the basic value, as reported to the Department. *See Memorandum to Barbara E. Tillman Through Dana Mermelstein From Elfi Blum: Analysis of Ministerial Error Allegations in Final Results of Countervailing Duty Review on Polyethylene Terephthalate Film, Sheet, and Strip from India* (March 12, 2008) (*Ministerial Error Memo*).

Second, MTZ states that, for the Duty Entitlement Passbook Scheme (DEPS/DEPB), the Department's calculation memorandum states that the benefits are conferred as of the date of exportation of the shipments for which the DEPS/DEPB credits are earned. MTZ alleges that the Department erred in calculating the benefits by including the value of credits earned on shipments made in 2004 for which the license was issued in 2005. Thus, according to MTZ, the calculation of the rate for this program does not reflect the method stated in the analysis memorandum, and therefore, constitutes a ministerial error. *See Memorandum to The File Through Dana Mermelstein From Elfi Blum: Administrative Review of the Countervailing Duty Order on Polyethylene Terephthalate Film from India: Revisions to the Rate Calculations for MTZ Polyfilms Ltd. (MTZ)* (February 4, 2008) (*Calculation Memo*).

MTZ correctly notes the Department's practice to treat benefits received under DEPS/DEPB as conferred as of the date of exportation of the shipment for which the relevant DEPS/DEPB credits are earned because it is at this point where the amount of the benefit in the form of an exemption is known. *See, e.g., Final Results of Countervailing Duty Administrative Review: Certain Hot-Rolled Carbon Steel Flat Products from India*, 69 FR 26549 (May 13, 2004), and accompanying Issues and Decision Memorandum at Comment 2; and *Final Affirmative Countervailing Duty Determination: Certain Cut-to-Length Carbon-Quality Steel Plate from India*, 64 FR 73131, 73140 (December 29, 1999).

However, we disagree with MTZ that our inclusion in the benefit calculation of all the DEPB credits MTZ reported constitutes a ministerial error. In the original questionnaire and in the first and second supplemental questionnaires we asked MTZ to report the date of shipment for all exports on which the benefits from its DEPS/DEPB licenses were earned, and to report such information for all credits earned during the period of review (POR). In MTZ's first supplemental response, MTZ reported the date of all licenses issued within the POR. MTZ also reported all credits earned under those licenses. However, MTZ did not report, for all of these credits, the dates of shipment for the related exports. In the second supplemental response, MTZ provided data for the DEPS/DEPB in the format requested by the Department, but did not include all previously reported licenses. At verification, MTZ noted as a minor correction and clarification, that it had erroneously omitted some licenses from the data set, and provided the verifiers with the information for those licenses identified to the Department. Although MTZ provided shipment data, including date, for some of the licenses at verification, it failed to do so for all of the licenses originally reported to the Department in its first supplemental response. Thus, there remained several licenses for which there was no shipment date reported. Based on the conclusion that MTZ reported its DEPS/DEPB licenses and credits earned as we had instructed, we considered that the credits were earned based on shipments made during the POR. Therefore, we included in our benefit calculations all of the DEPS/DEPB credits earned that MTZ reported.

During the course of the administrative review, MTZ failed to identify reported DEPS/DEPB credits that were earned outside the POR. Accordingly, without the information necessary for the Department to identify when the benefit was conferred, we appropriately relied on the date of the license to calculate the benefit. In conclusion, MTZ has not established that the Department made a ministerial error in its calculation of MTZ's DEPS/DEPB benefits. As such, no changes to the calculations for the *Final Results* are warranted. See *Ministerial Error Memo*.

In accordance with 19 CFR 351.224(e), we have amended the final results of the countervailing duty administrative review of PET Film, Sheet, and Strip from India, for the period January 1, 2005 to December 31, 2005, and the respondent MTZ, as noted above. As a result of these corrections,

MTZ's rate has changed as shown below.

Manufacturer/exporter	Net subsidy rate
MTZ Polyfilms, Ltd. ....	31.25%.

**Assessment and Cash Deposit Instructions**

The Department intends to issue assessment instructions to U.S. Customs and Border Protection (CBP) 15 days after the date of publication of these amended final results of review to liquidate shipments of subject merchandise by MTZ entered, or withdrawn from warehouse, for consumption on or after January 1, 2005 through December 31, 2005, at 31.25 percent *ad valorem*. We will also instruct CBP to collect cash deposits of the amended estimated countervailing duties, at this rate, on shipments of the subject merchandise by MTZ entered, or withdrawn from warehouse, for consumption on or after the date of publication of these amended final results of review.

We are issuing and publishing these amended final results in accordance with 19 CFR 351.224(e) of the Department's regulations.

Dated: March 12, 2008.

**David M. Spooner,**  
*Assistant Secretary for Import Administration.*  
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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**RIN 0648-XG18**

**Identification of Nations Whose Fishing Vessels Are Engaged in Illegal, Unreported, or Unregulated Fishing and/or Bycatch of Protected Living Marine Resources**

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

**ACTION:** Notice; request for information.

**SUMMARY:** NMFS is seeking information regarding nations whose vessels are engaged in illegal, unregulated, or unreported (IUU) fishing or engaged in bycatch of protected living marine resources (PLMRs). Such information will be reviewed for the purposes of the identification of nations pursuant to the High Seas Driftnet Fishing Moratorium

Protection Act (Moratorium Protection Act).

**DATES:** Information must be received by April 21, 2008

**ADDRESSES:** Information must be submitted by mail to NMFS Office of International Affairs, Attn.: Laura Cimo, 1315 East-West Highway, Silver Spring, MD 20910; by E-mail to: *laura.cimo@noaa.gov*; or by fax to (301) 713-9106.

**FOR FURTHER INFORMATION CONTACT:** Laura Cimo, NMFS Office of International Affairs, (301) 713-9090 ext. 132, e-mail address: *laura.cimo@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** The Moratorium Protection Act, as amended by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, requires the United States to strengthen international fishery management organizations and address IUU fishing and bycatch of PLMRs. Specifically, the Moratorium Protection Act requires the Secretary of Commerce to identify in a biennial report to Congress those nations whose fishing vessels are engaged, or have been engaged at any point during the preceding two years, in IUU fishing. Additionally, the Secretary of Commerce must identify in the biennial report those nations whose fishing vessels are engaged, or have been engaged during the preceding calendar year, in fishing activities either in waters beyond any national jurisdiction that result in bycatch of a PLMR, or beyond the U.S. exclusive economic zone (EEZ) that result in bycatch of a PLMR shared by the United States.

The first biennial report is due to Congress in January 2009. The Moratorium Protection Act also mandates the development of regulations that set forth the certification procedures for nations identified in the biennial report. NMFS is currently in the process of developing these regulations and will promulgate a final rule prior to issuing the first certification decisions under this statute. The public will be provided an opportunity to comment on the proposed rule when it is published at a later date.

At this time, NMFS is gathering information for the purposes of identifying nations whose fishing vessels are engaged in IUU fishing or fishing practices that result in bycatch of PLMRs for publication in the first biennial report to Congress. NMFS is soliciting from the public, other nations and international organizations,