management community; and (b) certify that "Final financial reports have been submitted to NOAA's Grants Management Division and a final funding draw-down has been made through the Automated Standard Application for Payments (ASAP)."

If equipment is purchased with grant funds, applicants may be asked to submit an equipment inventory in accordance with 15 CFR 14.34(f)(3), 15 CFR 24.32(b) or 15 CFR 24.32(d)(2) as an appendix to progress reports. Further, the program office recommends that recipients request disposition instructions for equipment approximately 150 days before the project period ends to allow sufficient time to have equipment disposition requests addressed before a project period ends. Equipment disposition instructions typically require that recipients complete an "other" award action request in Grants Online. NOAA will provide instructions for disposition in accordance with 15 CFR 14.34(g)–(h) and 15 CFR 24.32(g)(2).

Please be advised that potential funding applicants must register with Grants.gov before any application materials can be submitted. An organization's one time registration process may take up to three weeks to complete so please allow sufficient time to ensure applications are submitted before the closing date. To use Grants.gov, applicants must have a Dun and Bradstreet Data Universal Numbering System (DUNS) number and be registered in the Central Contractor Registry (CCR). Allow a minimum of five days to complete the CCR registration. (**Note:** Your organization's Employer Identification Number (EIN) will be needed on the application form.)

The Grants.gov site contains directions for submitting an application, the application package (forms), and is also where the completed application is submitted. Applicants using Grants.gov must locate the downloadable application package for this solicitation by the Funding Opportunity Number or the CFDA number (11.473). Applicants will be able to download a copy of the application package, complete it off line, and then upload and submit the application via the Grants.gov site.

After electronic submission of the application, the person submitting the application will receive within the next 24 to 48 hours two e-mail messages from Grants.gov updating them on the progress of their application. The first e-mail will confirm receipt of the application by the Grants.gov system, and the second will indicate that the application has either been successfully validated by the system before transmission to the grantor agency or has been rejected because of errors. After the application has been validated, this same person will receive another e-mail when the application has been downloaded by the Federal agency.

**Christopher C. Cartwright,**

*Associate Assistant Administrator for Management and CFO/CAO, Ocean Services and Coastal Zone Management.*

[FR Doc. 2010–22645 Filed 9–10–10; 8:45 am]

**BILLING CODE 3510–JE–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–583–841]**

### Polyvinyl Alcohol From Taiwan: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

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

**SUMMARY:** The U.S. Department of Commerce (the Department) preliminarily determines that sales of polyvinyl alcohol (PVA) from Taiwan are being, or are likely to be, sold in the United States at less than fair value (LTFV) as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are listed in the "Suspension of Liquidation" section of this notice. Interested parties are invited to comment on this preliminary determination.

Pursuant to requests from the respondent, we are postponing by 60 days the final determination and extending provisional measures from a four-month period to not more than 6 months. Accordingly, we will make our final determination not later than 135 days after publication of this preliminary determination.

**DATES:** *Effective Date:* September 13, 2010

**FOR FURTHER INFORMATION CONTACT:** Thomas Schauer or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–0410 or (202) 482–4477 respectively.

**SUPPLEMENTARY INFORMATION:**

#### Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Act or the Department's regulations, 19 CFR part 351, are to those provisions in effect on September 27, 2004, the date of initiation of this investigation.

#### Background

On September 27, 2004, the Department initiated the antidumping duty investigation on PVA from Taiwan. *See Initiation of Anti Dumping Duty Investigation: Polyvinyl Alcohol From Taiwan,* 69 FR 59204 (October 4, 2004) (*Initiation Notice*). On October 22, 2004, the International Trade Commission (ITC) made a preliminary determination that there was not a reasonable indication of injury due to imports of the subject merchandise. *See Polyvinyl Alcohol From Taiwan,* 69 FR 63177 (October 29, 2004). As a result, the Department terminated the investigation.

The petitioner appealed the negative ITC preliminary determination to the Court of International Trade (CIT). On remand from the CIT, the ITC reversed its preliminary determination and found instead that there was a reasonable indication of injury due to imports of the subject merchandise. The CIT affirmed the ITC's remand determination. *See Celanese Chemicals, Ltd.* v. *United States,* Slip Op. 08–125 (CIT 2008). DuPont, an importer of the subject merchandise, appealed the CIT's decision to the Court of Appeals for the Federal Circuit (CAFC). On December 23, 2009, the CAFC affirmed the ITC's decision. *See Polyvinyl Alcohol From Taiwan; Determination,* 75 FR 15726 (March 30, 2010). The ITC notified the Department of its affirmative determination in the preliminary phase of an antidumping duty investigation concerning imports of PVA from Taiwan on March 25, 2010. *See* letter from the ITC dated March 25, 2010. On April 20, 2010, the Department issued a decision memorandum which stated that the deadline for its preliminary determination is July 18, 2010. *See* memorandum to Laurie Parkhill dated April 20, 2010, at 10.

On April 20, 2010, we issued the antidumping questionnaire to Chang Chun Petrochemical Co., Ltd. (CCPC). On May 24, 2010, we received a response to section A of our questionnaire from CCPC. On June 10, 2010, we received a response to sections B–D of our questionnaire from CCPC. We issued supplemental questionnaires to CCPC and received responses to these questionnaires from CCPC.

On June 17, 2010, the petitioner requested that the Department postpone its preliminary determination by 50 days. In accordance with section 733(c)(1)(A) of the Act, we postponed our preliminary determination by 50 days. *See Postponement of*

*Preliminary Determination of Antidumping Duty Investigation: Polyvinyl Alcohol From Taiwan,* 75 FR 38079 (July 1, 2010).

On July 22, 2010, and August 6, 2010, the petitioner submitted allegations that CCPC engaged in targeted dumping during the POI.

On July 28, 2010, the petitioner amended the scope of the investigation and the definition of the domestic like product.

On August 4, 2010, CCPC submitted comments on the scope of the investigation. On August 13, 2010, the petitioner submitted comments opposing CCPC's requested exclusions.

On August 6, 2010, the petitioner submitted comments for consideration in the preliminary determination.

On August 16, 2010, CCPC submitted comments on the petitioner's targeted-dumping allegations. On August 31, 2010, the petitioner submitted comments rebutting CCPC's arguments on the targeted-dumping allegations.

On August 20, 2010, CCPC submitted a request that, in the event that the Department issues an affirmative preliminary antidumping determination, the Department should extend the final determination to the maximum of 135 days after the date of publication of the preliminary determination. CCPC also requested that, in the event that the Department issues an affirmative preliminary antidumping determination, the Department should extend the application of provisional measures by the corresponding period of extension in accordance with section 733(d) of the Act.

On September 1, 2010, the petitioner submitted further comments regarding CCPC's reported physical characteristics.

**Period of Investigation**

The period of investigation (POI) is July 1, 2003, through June 30, 2004. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, September 2004. *See* 19 CFR 351.204(b)(1).

**Scope of the Investigation**

The merchandise covered by this investigation is PVA. This product consists of all PVA hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid. PVA in fiber form and PVB-grade low-ash PVA are not included in the scope of this investigation. PVB-grade low-ash PVA is defined to be PVA that meets the following specifications: Hydrolysis, Mole % of 98.40 ± 0.40, 4% Solution Viscosity 30.00 ± 2.50 centipois, and ash—ISE, wt% less than 0.60, 4% solution color 20mm cell, 10.0 maximum APHA units, haze index, 20mm cell, 5.0, maximum. The merchandise under investigation is currently classifiable under subheading 3905.30.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

**Scope Comments**

On July 28, 2010, the petitioner amended the scope of the petition and the definition of the domestic like product to exclude "PVB-grade low-ash" PVA, which it defined as "PVA that meets the following specifications: Hydrolysis, Mole % of 98.40 ± 0.40, 4% Solution Viscosity 30.00 ± 2.50 centipois, and ash—ISE, wt% less than 0.60, 4% solution color 20mm cell, 10.0 maximum APHA units, haze index, 20mm cell, 5.0, maximum." *See* the petitioner's July 28, 2010, submission. We have adopted the petitioner's amendment and the scope of the investigation, described above, reflects this amendment.

On August 4, 2010, CCPC submitted comments on the scope of the investigation. Specifically, CCPC requested that the Department exclude 15 categories of merchandise that the Department excluded from the scope of the antidumping duty orders on PVA from Japan and from the People's Republic of China. CCPC argues that these exclusions are appropriate because the three proceedings are virtually contemporaneous, because the petitioner still cannot manufacture these products, and because doing so would allow U.S. Customs and Border Protection (CBP) to administer the three antidumping duty orders on PVA consistently.

On August 13, 2010, the petitioner submitted comments opposing CCPC's requested exclusions. The petitioner observes that the first product for which CCPC requested exclusion, PVA in fiber form, is already specifically excluded from the investigation. With respect to the remaining products, the petitioner states that CCPC's assertion that the petitioner cannot manufacture the products at issue is incorrect. The petitioner states that it has the competence to manufacture products that fall within or that are functionally equivalent to and commercially competitive with products that fall within all of CCPC's proposed exclusions that are at issue. The petitioner states that it is actively selling or developing markets for products that fall into several of these categories. The petitioner argues that its ability to compete in the domestic PVA market with products in any of these categories will be directly affected by dumped imports in these categories.

Because the petitioner opposes CCPC's proposed exclusions and because the petitioner has stated that it is both actively developing and capable of producing PVA that is commercially competitive with products that fall within all of CCPC's proposed exclusions (with the exception of PVA in fiber form, which is already excluded from the investigation), we have not adopted the scope exclusions requested by CCPC.

**Targeted-Dumping Allegation**

The statute allows the Department to employ the average-to-transaction margin-calculation methodology under the following circumstances: (1) There is a pattern of export prices that differ significantly among purchasers, regions, or periods of time; (2) the Department explains why such differences cannot be taken into account using the average-to-average or transaction-to-transaction methodology. *See* section 777A(d)(1)(B) of the Act.

On July 21, 2010, the petitioner submitted a timely allegation of targeted dumping with respect to CCPC and asserted that the Department should apply the average-to-transaction methodology in calculating the margin for CCPC. In its allegation, the petitioner asserts that there are patterns of export prices (EPs) for comparable merchandise that differ significantly among purchasers and regions. On August 6, 2010, the petitioner amended its allegation to assert that there are patterns of EPs for comparable merchandise that differ significantly among time periods. The petitioner relied on the Department's targeted-dumping test in *Certain Steel Nails from the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value,* 73 FR 33985 (June 16, 2008), and *Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances,* 73 FR 33977 (June 16, 2008) (collectively, *Nails*).

Because our analysis includes business-proprietary information, for a full discussion *see* Memorandum to Susan Kuhbach entitled "Less-Than-Fair-Value Investigation on Polyvinyl Alcohol from Taiwan: Targeted

Dumping—Chang Chun Petrochemical Co., Ltd.," dated September 7, 2010 (Targeted-Dumping Memo).

*A. Targeted-Dumping Test*

We conducted customer, regional, and time-period targeted-dumping analyses for CCPC using the methodology we adopted in *Nails* as modified in *Polyethylene Retail Carrier Bags From Taiwan: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 74 FR 55183 (October 27, 2009) (test unchanged in final; 75 FR 14569 (March 26, 2010)), to correct a ministerial error.

The methodology we employed involves a two-stage test; the first stage addresses the pattern requirement and the second stage addresses the significant-difference requirement. *See* section 777A(d)(1)(B)(i) of the Act and *Nails.* In this test we made all price comparisons on the basis of identical merchandise (*i.e.,* by control number or CONNUM). The test procedures are the same for the customer, region, and time-period targeted-dumping allegations. We based all of our targeted-dumping calculations on the U.S. net price which we determined for U.S. sales by CCPC in our standard margin calculations. For further discussion of the test and the results, *see* the Targeted-Dumping Memo.

As a result of our analysis, we preliminarily determine that there is a pattern of EPs for comparable merchandise that differ significantly among certain customers and time periods for CCPC in accordance with section 777A(d)(1)(B)(i) of the Act and our practice as discussed in *Nails.*

*B. Price-Comparison Method*

Section 777A(d)(1)(B)(ii) of the Act states that the Department may compare the weighted average of the normal value to EPs or constructed export prices (CEPs) of individual transactions for comparable merchandise if the Department explains why differences in the patterns of EPs and CEPs cannot be taken into account using the average-to-average methodology. As described above, we have preliminarily determined that, with respect to sales by CCPC for certain customers and time periods, there was a pattern of prices that differ significantly. We find that these differences cannot be taken into account using the average-to-average methodology because the average-to-average methodology conceals differences in the patterns of prices between the targeted and non-targeted groups by averaging low-priced sales to the targeted group with high-priced sales to the non-targeted group.

Once we determine that the customer, regional, or time-period pattern-of-price differences are significant, our recent practice has been to apply the average-to-transaction methodology to all sales regardless of whether they are targeted. *See, e.g., Polyethylene Retail Carrier Bags from Taiwan: Final Determination of Sales at Less Than Fair Value,* 75 FR 14569 (March 26, 2010), and accompanying Issues and Decision Memorandum at Comment 1 (*Taiwan Bags*). Prior to the publication of *Withdrawal of the Regulatory Provisions Governing Targeted Dumping in Antidumping Duty Investigations,* 73 FR 74930 (December 10, 2008) (*Withdrawal of Regulations*), however, the regulation in effect when we initiated this investigation, 19 CFR 351.414(f)(2) (2004), specified that "the Secretary normally will limit the application of the average-to-transaction methodology to those sales that constitute targeted dumping."

The use of the qualifier "normally" in 19 CFR 351.414(f)(2) (2004) indicates that we have the discretion to depart from limiting the application of the average-to-transaction methodology to those sales that constitute targeted dumping if we find it appropriate to do so. We preliminarily determine that such a departure is appropriate in this investigation. After this investigation was initiated, we withdrew this regulation because we recognized that the regulation "may have established thresholds or other criteria that have prevented the use of this comparison methodology to unmask dumping, contrary to the Congressional intent." *See Withdrawal of Regulations,* 73 FR at 74931. We said further that "{w}ithdrawal {of the regulation} will allow the Department to exercise the discretion intended by the statute and, thereby, develop a practice that will allow interested parties to pursue all statutory avenues of relief in this area." *Id.* Since the publication of *Withdrawal of Regulations,* we have refined our practice in cases involving targeted dumping. Specifically, "if the criteria of section 777A(d)(1)(B) of the Act are satisfied, the Department will apply average-to-transaction comparisons for all sales in calculating the weighted-average dumping margin." *See Taiwan Bags* and accompanying Issues and Decision Memorandum at Comment 1.

Accordingly, because 19 CFR 351.414(f)(2) (2004) gives us the discretion to depart from limiting the application of the average-to-transaction methodology to only those sales that constitute targeted dumping and because we have developed a practice which better reflects Congressional intent, we have applied the average-to-transaction methodology to all U.S. sales that CCPC reported and have not offset any margins found.

*Date of Sale*

Section 351.401(i) of the Department's regulations states that the Department normally will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established.

CCPC reported that the essential terms of sale (*i.e.,* price and quantity) were set on the date of the customer's order for both home-market and U.S. sales. For home-market sales, CCPC reported the "customer-order entry date" as the date of sale because home-market customers placed orders by telephone or online; as a result, there is no customer-order form and the date on which CCPC entered the order into its sales system is the closest date to when CCPC received the customer order. *See* CCPC's July 21, 2010, supplemental response at page 8. For U.S. sales, CCPC was able to report the date of the customer order as the date of sale because U.S. customers placed order by fax or by e-mail. *Id.*

We preliminarily determine that the material terms of sale are set on the invoice date for both home-market and U.S. sales. Although CCPC reported that the price and quantity did not change after the customer-order date for either its home-market or U.S. sales, CCPC reported that other terms of sale, such as the product code, designated customer, or packing type, changed after the customer-order date with respect to a number of both home-market and U.S. sales. *See* CCPC's August 20, 2010, supplemental response at Exhibits 4 and 8. The record is not clear as to the extent that changes in product type or packing type have on price. The record does demonstrate that there are significantly different costs associated with different packing types. *See* CCPC's section B–D response dated June 10, 2010, at exhibits 13 and 18. Therefore, we are preliminarily treating these types of changes as changes to the essential terms of sale. Accordingly, we have preliminarily determined that the invoice date is the date of sale with respect to CCPC's home-market and U.S. sales.

*Fair-Value Comparisons*

To determine whether sales of PVA to the United States by CCPC were made

at LTFV during the POI, we compared EP to normal value as described in the "U.S. Price" and "Normal Value" sections of this notice. As described in the "Targeted-Dumping Allegation" section, above, we made average-to-transaction comparisons for all of CCPC's reported sales and did not provide offsets for non-dumped comparisons.

*Product Comparisons*

We have taken into account the comments that were submitted by the interested parties concerning product-comparison criteria. In accordance with section 771(16) of the Act, all products produced by the respondent that are covered by the description in the "Scope of the Investigation" section, above, and sold in the home market during the POI are considered to be foreign like product for purposes of determining appropriate product comparisons to U.S. sales. We have relied on eleven criteria to match U.S. sales of subject merchandise to home-market sales of the foreign like product: viscosity, molecular structure, hydrolysis, degree of modification, particle size, tackifier, defoamer, ash, color, volatiles, and visual impurities. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade for comparison to U.S. sales, we matched U.S. sales to the next most similar foreign like product on the basis of the characteristics listed above.

CCPC reported viscosity, hydrolysis, and degree of modification using ranges rather than specific values because, it explained, CCPC sells PVA by grades which are defined by ranges. *See* CCPC's July 7, 2010, submission at pages 2–4. The petitioner has argued that the Department should require CCPC to code the product characteristics accurately and to assign the identical product-characteristic code to products that are identical with respect to the characteristic. According to the petitioner, the ranges CCPC used to report these characteristics include overlapping ranges, meaning that the different product codes could be employed for products with identical characteristics. As a result, the petitioner contends, products that are identical with respect to certain physical characteristics can be coded as different. The petitioner asserts that CCPC's reporting methodology prevents the Department from matching identical and most similar products accurately. The petitioner suggests that the Department use adverse facts available for CCPC's margin or collapse certain models for the preliminary determination.

We preliminarily determine that it would be inappropriate to revise CCPC's codes for reporting viscosity, hydrolysis, or degree of modification. CCPC has stated that it produces and sells PVA on the basis of grades which are defined principally in terms of ranges of hydrolysis, viscosity, and polymerization. *See* CCPC's July 7, 2010, submission at page 2. CCPC also submitted evidence indicating that other PVA producers also sell PVA on the basis of grades. Id. at Exhibits 1 through 3. Furthermore, CCPC's ranges for these characteristics correspond to the definitions of the grades it produces and sells in its ordinary course of business. Compare CCPC's May 14, 2010, section B response at pages 8–10 and its May 14, 2010, section C response at pages 39–40 with its product brochure at CCPC's May 14, 2010, section A response at Exhibit 16.

The petitioner does not dispute any of this. Rather, the petitioner's argument is based on the fact that certain ranges for viscosity overlap. As a preliminary matter, the ranges CCPC used to report hydrolysis and degree of modification do not overlap. Accordingly, with respect to these physical characteristics, the petitioner's concern about the assignment of different codes to identical products is not relevant.

With respect to viscosity, while there is overlap between certain viscosity codes, there are specific viscosities for which a product would be within one range but not the other. For example, CCPC's code 12 covers PVA with a viscosity of between 24 and 32 centipoises, code 13 covers PVA with a viscosity of between 25 and 30 centipoises, and code 14 covers PVA with a viscosity of between 27 and 33 centipoises. *See* CCPC's May 14, 2010, section B response at pages 8–10 and its May 14, 2010, section C response at pages 39–40. Thus, a sale of PVA with a viscosity between 27 and 30 centipoises could be assigned any three of these codes. By contrast, however, a sale of PVA with a centipoises of above 32 but below 33 could only be assigned a code of 14. While the petitioner is correct that the certificates of analysis which CCPC submitted indicate that the PVA corresponding to those certificates could be assigned any of these three codes, the petitioner based its argument on four certificates of analysis which CCPC submitted with its July 21, 2010, supplemental response. This is a very small sample in relation to the number of transactions CCPC submitted in its home-market and U.S. sales databases. *See* CCPC's July 21, 2010, supplemental response at Exhibits 6 and 7.

Furthermore, the record demonstrates that, with respect to certain grades of PVA which have overlapping viscosity codes, there are batches of these grades of PVA which could only be assigned one code but not another. For example, the first of the certificates of analysis CCPC submitted in Exhibit 5 of its July 21, 2010, supplemental response shows a grade which can only be assigned a particular viscosity code. If we were to adopt the petitioner's suggestion, we would collapse this viscosity code with another code, thus opening the possibility that we could treat non-identical merchandise as identical.

Furthermore, although the petitioner raised the possibility that we could treat identical products as non-identical products, there is no evidence on the record showing that we would actually do so. The two grades on the four certificates of analysis which the petitioner cites could all conceivably be assigned the same viscosity code, but the hydrolysis values on these certificates of analysis demonstrate that these two grades must be assigned different hydrolysis codes. *See* CCPC's July 21, 2010, supplemental questionnaire at Exhibit 4. Thus, even if we collapsed these viscosity codes, these two grades would still not be identical merchandise.

For the foregoing reasons, we preliminarily determine that it is not appropriate to modify CCPC's reported physical characteristics.

**Export Price**

In accordance with section 772(a) of the Act, we used EP for CCPC's U.S. sales because the subject merchandise was sold directly to unaffiliated customers in the United States prior to importation. As described in the "Targeted-Dumping Allegation" section, above, we compared transaction-specific EPs to the weighted-average normal values.

We calculated EP based on the packed price to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. *See* memorandum to the file entitled "Preliminary Determination of Sales at Less Than Fair Value in the Antidumping Duty Investigation of Polyvinyl Alcohol from Taiwan—Analysis Memorandum for Chang Chun Petrochemical Co., Ltd." dated September 7, 2010 (Analysis Memo), for additional information.

**Normal Value**

*A. Home-Market Viability and Comparison-Market Selection*

To determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating normal value (*i.e.,* the aggregate volume of home-market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared each respondent's volume of home-market sales of the foreign like product to its volume of U.S. sales of the subject merchandise. *See* section 773(a)(1)(B) of the Act. Based on this comparison, we have preliminarily determined that CCPC had a viable home market during the POI. Consequently, we based normal value on home-market sales in accordance with section 773(a)(1)(B) of the Act.

*B. Level of Trade*

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine normal value based on sales in the comparison market at the same level of trade as the EP sales in the U.S. market. Pursuant to 19 CFR 351.412(c)(1), the normal-value level of trade is based on the starting price of the sales in the comparison market or, when normal value is based on constructed value, the starting price of the sales from which we derive selling, general and administrative expenses and profit. For EP sales, the U.S. level of trade is based on the starting price of the sales in the U.S. market, which is usually from the exporter to the importer.

To determine whether comparison-market sales are at a different level of trade than EP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. *See* 19 CFR 351.412(c)(2). If the comparison-market sales are at a different level of trade and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which normal value is based and the comparison-market sales at the level of trade of the export transaction, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa,* 62 FR 61731, 61733 (November 19, 1997).

In this investigation, we obtained information from CCPC regarding the marketing stages involved in making its reported home-market and U.S. sales, including a description of the selling activities the respondent performed for each channel of distribution.

During the POI, CCPC reported that it sold PVA in the home market through a single channel of distribution. We found that the selling activities associated with all sales through this channel of distribution did not differ. Accordingly, we found that the home-market channel of distribution constituted a single level of trade.

CCPC reported that its EP sales were made to distributors through a single channel of distribution. We found that the selling activities associated with all sales through this channel of distribution did not differ. Accordingly, we found that the EP channel of distribution constituted a single level of trade. We found that the EP level of trade was identical to the home-market level of trade in terms of selling activities. Thus, we matched CCPC's EP sales at the same level of trade in the home market and made no level-of-trade adjustment. *See* Analysis Memo.

*C. Cost of Production*

Based on our analysis of an allegation contained in the petition, we found that there were reasonable grounds to believe or suspect that sales of PVA in the home market were made at prices below their cost of production (COP). Accordingly, pursuant to section 773(b) of the Act, we initiated a countrywide sales-below-cost-investigation to determine whether sales were made at prices below their respective COP (*see Initiation Notice,* 69 FR at 59206).

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product plus an amount for selling, general and administrative expenses (SG&A), financial expenses, and comparison-market packing costs (*see* the "Test of Comparison-Market Sales Prices" section below for treatment of home-market selling expenses and packing costs). We relied on the COP data submitted by CCPC with one exception: We increased the reported general and administrative (G&A) expenses to include a non-operating expense line-item from the financial statements, "loss on work stoppages." This expense is associated with a temporary shutdown of CCPC's operations for its copper foil division. *See* Memorandum to Neal Halper from Ernest Gziryan entitled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination—Chang Chun Petrochemical Co. Ltd.," dated September 7, 2010.

2. Test of Home-Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home-market sales of the foreign like product, as required under section 773(b) of the Act, to determine whether the sales were made at prices below the COP. For purposes of this comparison, we used the COP exclusive of selling and packing expenses. The prices were adjusted for discounts and were exclusive of any applicable movement charges, direct and indirect selling expenses, and packing expenses, adjusted as discussed below.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of the respondent's sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product because we determine that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of the respondent's sales of a given product during the POI were at prices less than COP, we determine that such sales have been made in "substantial quantities" and, thus, we disregard below-cost sales. *See* section 773(b)(2)(C) of the Act. Further, we determine that the sales were made within an extended period of time, in accordance with section 773(b)(2)(B) of the Act, because we examine below-cost sales occurring during the entire POI. In such cases, because we compare prices to POI-average costs, we also determine that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act.

In this case, we found that, for certain specific products, more than 20 percent of CCPC's home-market sales were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. Therefore, we disregarded these sales and used the remaining sales as the basis for determining normal value in accordance with section 773(b)(1) of the Act.

*D. Calculation of Normal Value Based on Home-Market Prices*

We based normal value on packed, delivered prices to unaffiliated customers in the home market.

The petitioner has argued that the Department should remove "transport" sales from the home-market sales

database. Transport sales occur when the transportation company is responsible for any loss during the shipment from CCPC's factory to the customer; the transportation company will compensate the customer for the loss of product by purchasing an equal amount of the product from CCPC and delivering the replacement product to the customer. *See* CCPC's July 21, 2010, supplemental response at 20. The petitioner contends that these transactions are not really sales but are reimbursement by the transportation company for lost product.

We preliminarily determine that these transactions are sales. Any reimbursement is between the transportation company and the original customer. From CCPC's point of view, it made a sale to the original customer and then made a sale to a transport company and it gets compensated for both. Accordingly, we have not removed these sales from our analysis. *See* Analysis Memo.

We made an adjustment to the starting price, where appropriate, for discounts in accordance with 19 CFR 351.401(c). We made deductions, where appropriate, for movement expenses under section 773(a)(6)(B)(ii) of the Act.

Pursuant to section 773(a)(6)(C)(iii) of the Act, we made circumstance-of-sale adjustments by deducting home-market direct selling expenses from, and adding U.S. direct selling expenses to, normal value. *See* also 19 CFR 351.410.

We made an adjustment to CCPC's reported credit expense for certain U.S. sales where the customer paid by letter of credit and CCPC "negotiated with the paying banks for earlier release of customer payments with interest." *See* CCPC's July 21, 2010, supplemental response at page 33. CCPC reported the date of payment, which it used to calculate imputed credit expenses, for such sales based on when it received funds from the bank. Id. at page 20. We preliminarily determine that it is appropriate to use the date when the customer actually paid as the date of payment. Although CCPC received funds from the customer's bank at an earlier date, it had to pay interest to the customer's bank for early release of the funds. Id. at page 33. Thus, this is essentially a loan transaction between CCPC and the customer's bank; CCPC's customer is not involved. Indeed, CCPC acknowledges that its customers did not pay earlier than the payment terms prescribed. *Id.* Because the circumstance-of-sale adjustment to normal value for imputed credit expenses is meant to capture differences in the credit terms a respondent extends its customers in different markets, it is appropriate to use the date that the customer actually paid as the date of payment rather than the date on which CCPC negotiated a loan with the customer's bank. Accordingly, where CCPC's reported payment date for these U.S. sales were less than the payment terms prescribed, we have revised the payment date to match the prescribed payment terms and have recalculated imputed credit expenses accordingly.

We made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act. We deducted the costs of home-market packing materials from and added U.S. packing costs to normal value in accordance with sections 773(a)(6)(A) and (B) of the Act.

The Department's regulations at 19 CFR 351.401(g)(1) provide that the Department may consider allocated expenses where the Department "is satisfied that the allocation methodology does not cause inaccuracies or distortions." We preliminarily determine that CCPC's reported allocation of its packing-labor expense is unreasonably distortive because CCPC allocated packing labor equally to all sales even though U.S. sales are generally packed using many more packing materials (and, therefore, presumably require more time to pack) than home-market sales. *See* CCPC's questionnaire response dated June 10, 2010, at exhibits 13 and 18. CCPC has admitted that it "incurred its packing expenses solely based on outside packing labor's overall time performed." *See* CCPC's August 20, 2010, supplemental response at page 4. Despite our two requests of CCPC to recalculate packing labor to reflect differences in labor time associated with different packing types, CCPC has failed to do so. *See* CCPC's July 21, 2010, response at page 25 and CCPC's August 20, 2010, supplemental response at pages 3–4. CCPC asserts that its allocation is accurate because it incurred packing expenses based on time "regardless of the packing types and markets of polyvinyl alcohol." *See* CCPC's August 20, 2010, supplemental response at page 4. While it may be true that there is no difference in the per-hour rate charged by the providers of the packing service based on market or packing type, U.S. sales are packed using many more packing materials than home-market sales; we commented in our supplemental questionnaire that, as a result, it would presumably mean that it would take more time to pack U.S. sales than home-market sales. CCPC did not address this comment in its response. *Id.* at pages 3–4.

As a result of CCPC's allocation, we preliminarily determine that the reported packing labor for U.S. sales is understated while the reported packing labor for home-market sales is overstated. Each of these distortions has the effect of reducing the dumping margin.

Section 776(a)(1)(A) of the Act provides that the Department may use the facts available if necessary information is not available on the record. Because CCPC did not provide a reasonable allocation methodology to account for the difference in packing times, we have preliminarily determined that the use of facts available with respect to CCPC's packing-labor expenses is warranted.

Section 776(b) of the Act provides that the Department may use an adverse inference when using the facts available when a respondent has not acted to the best of its ability to provide necessary information. Because CCPC did not provide a reasonable allocation methodology to account for the difference in packing times despite our multiple requests to do so, we have preliminarily determined that an adverse inference with respect to CCPC's packing-labor expenses is warranted. Accordingly, as adverse facts available, we have denied CCPC's claimed packing-labor adjustment for home-market sales and we have allocated all of CCPC's packing-labor expenses to export sales. Because we are using the actual expenses and shipments reported by CCPC rather than secondary information, corroboration under section 776(c) of the Act is not necessary.

**Currency Conversion**

It is our normal practice to make currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank. We have converted all prices, costs, expenses, and adjustments denominated in Taiwan dollars into U.S. dollars in accordance with our normal practice.

**Verification**

As provided in section 782(i)(1) of the Act, we intend to verify the information upon which we will rely in making our final determination for CCPC.

**Suspension of Liquidation**

In accordance with section 733(d)(2) of the Act, we will direct CBP to suspend liquidation of all entries of PVA from Taiwan that are entered, or

withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average margins, as indicated below, as follows: (1) The rate for CCPC will be the rate we have determined in this preliminary determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 3.02 percent, as discussed in the "All-Others Rate" section, below. These suspension-of-liquidation instructions will remain in effect until further notice.

| Manufacturer/exporter | Weighted-average margin (percent) |
|---|---|
| Chang Chun Petrochemical Co., Ltd. | 3.02 |
| All Others | 3.02 |

**All-Others Rate**

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding any zero or *de minimis* margins and any margins determined entirely under section 776 of the Act. CCPC is the only respondent in this investigation for which the Department has calculated a company-specific rate. Therefore, for purposes of determining the all-others rate and pursuant to section 735(c)(5)(A) of the Act, we are using the weighted-average dumping margin calculated for CCPC, 3.02 percent. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Italy,* 64 FR 30750, 30755 (June 8, 1999), and *Coated Free Sheet Paper from Indonesia: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 72 FR 30753, 30757 (June 4, 2007) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from Indonesia,* 72 FR 60636 (October 25, 2007)).

**Disclosure**

We will disclose the calculations performed in our preliminary determination to interested parties in this proceeding in accordance with 19 CFR 351.224(b).

**ITC Notification**

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination. If the Department's final determination is affirmative, the ITC will determine within 75 days after the date of that affirmative determination whether imports of PVA from Taiwan are materially injuring, or threatening material injury to, the U.S. industry (*see* section 735(b)(3) of the Act).

**Public Comment**

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the last verification report in this proceeding. *See* 19 CFR 351.309(c). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs. *See* 19 CFR 351.309(d). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. *See* 19 CFR 351.309(c)(2). Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette.

In accordance with section 774 of the Act, the Department will hold a public hearing, if timely requested, to afford interested parties an opportunity to comment on issues raised in case briefs, provided that such a hearing is requested by an interested party. *See* also 19 CFR 351.310. If a timely request for a hearing is made in this investigation, we intend to hold the hearing two days after the deadline for filing a rebuttal brief at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain the following: (1) The party's name, address, and telephone number; (2) a list of participants; (3) a list of the issues to be discussed. *See* 19 CFR 351.310(c). At the hearing, oral presentations will be limited to issues raised in the briefs.

**Postponement of Final Determination and Extension of Provisional Measures**

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise or, in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of the Department's regulations requires that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On August 20, 2010, CCPC requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days. At the same time, CCPC requested that the Department extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2) from a four-month period to a six-month period. In accordance with section 735(a)(2) of the Act and 19 CFR 351.210(b)(2), because (1) our preliminary determination is affirmative, (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting this request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: September 7, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

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