

assessment of doubled antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order ("APO") of their responsibility concerning destruction of proprietary information disclosed under an APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This notice is published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: March 28, 2011.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2011-7793 Filed 4-1-11; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-583-837]

#### **Polyethylene Terephthalate Film, Sheet, and Strip From Taiwan: Amended Final Results of Antidumping Duty Review**

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

**ACTION:** Notice.

**SUMMARY:** On February 22, 2011, the Department of Commerce (the Department) published the final results of the antidumping duty administrative review of polyethylene terephthalate film, sheet, and strip (PET Film) from Taiwan.<sup>1</sup> The period of review (POR) is July 1, 2008, through June 30, 2009. We are amending the *Final Results* to correct a ministerial error that was made in the calculation of the antidumping duty margin for Nan Ya Plastics Corporation, Ltd. (Nan Ya), pursuant to section 751(h) of the Tariff Act of 1930, as amended (the Act).

**DATES:** *Effective Date:* (February 22, 2011)

**FOR FURTHER INFORMATION CONTACT:** Gene Calvert, AD/CVD Operations, Office 6, Import Administration, International Trade Administration,

<sup>1</sup> See *Polyethylene Terephthalate Film, Sheet, and Strip From Taiwan: Final Results of Antidumping Duty Administrative Review*, 76 FR 9745 (February 22, 2011) (*Final Results*) and accompanying Issues and Decision Memorandum (IDM).

U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3586.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On March 8, 2011, pursuant to 19 CFR 351.224(c)(1), Nan Ya filed a timely submission alleging ministerial errors with respect to the Department's use of sales datasets and matching of CONNUMs in the antidumping duty margin calculation for Nan Ya in the *Final Results*.<sup>2</sup> On March 14, 2011, DuPont Teijin Films; Mitsubishi Polyester Film Inc.; SKC, Inc.; and Toray Plastics (America), Inc. (collectively, Petitioners) provided timely rebuttal comments to Nan Ya's model matching allegation.<sup>3</sup>

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

The products covered by the antidumping order are all gauges of raw, pretreated, or primed polyethylene terephthalate film, 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 more than 0.00001 inches thick. Imports of PET Film are currently 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 this proceeding is dispositive.

##### **Ministerial Error Allegation**

A ministerial error is defined in section 751(h) of the Act as " \* \* \* errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial."<sup>4</sup> In its Allegation of Ministerial Errors, Nan Ya alleged that: (1) The Department inadvertently used the incorrect U.S. and home market sales datasets to calculate Nan Ya's antidumping duty margin for the final results; and (2) the Department erroneously matched similar home market subject merchandise to U.S. sales where there was no identical sale during the comparison period.<sup>5</sup>

<sup>2</sup> See Nan Ya's Letter to the Secretary of Commerce dated March 8, 2011 (Allegation of Ministerial Errors).

<sup>3</sup> See Petitioners' Letter to the Secretary of Commerce dated March 14, 2011.

<sup>4</sup> See also 19 CFR 351.224(f).

<sup>5</sup> See Allegation of Ministerial Errors at 1-3.

Specifically, Nan Ya argues that the last criteria in the Department's model matching hierarchy, surface treatment, has a greater impact on the sales price and the production costs of PET Film compared to the other criteria in the hierarchy, and that it should receive more weight during the model matching process. Petitioners commented only on Nan Ya's model matching allegation, contending that the Department did not commit a ministerial error. According to Petitioners, the Department acted in accordance with its well established methodology with respect to model matching.<sup>6</sup>

##### **Analysis of Allegations**

After analyzing the interested parties' allegations and rebuttal comments, we find, in accordance with section 751(h) of the Act and 19 CFR 351.224(e), that with respect to Nan Ya's first allegation, the Department did, indeed, inadvertently use the incorrect sales datasets to calculate Nan Ya's antidumping duty margin for the *Final Results*. In its May 27, 2010 supplemental questionnaire to Nan Ya, the Department requested that Nan Ya and its three U.S. affiliates provide a single, consolidated constructed export price (CEP) sales dataset to report their sales in the U.S. market.<sup>7</sup> However, the three U.S. affiliates stated that they are not affiliated with Nan Ya, and each submitted an individual CEP sales dataset.<sup>8</sup> Subsequently, the Department requested that Nan Ya and its three U.S. affiliates provide several revised sales datasets for home market, export price (EP) and CEP sales. While the correct datasets were used for the CEP sales for the *Final Results*, we erroneously used an older version of the home market and U.S. EP sales datasets submitted by Nan Ya. Thus, the Department has determined that the use of the wrong datasets constitutes a ministerial error, in accordance with section 751(h) of the Act, and 19 CFR 351.224(e). For these amended final results, we recalculated Nan Ya's antidumping duty margin using the correct sales datasets.

Regarding Nan Ya's second allegation with respect to model matching, the Department disagrees that it made a ministerial error as defined by section 751(h) of the Act and 19 CFR 351.224(e).

<sup>6</sup> See Petitioners' Rebuttal Comments at 1-3.

<sup>7</sup> See the Department's Letter to Nan Ya dated May 27, 2010 at 1.

<sup>8</sup> See, e.g., Letters to the Secretary of Commerce regarding the section C questionnaire responses of Forplax LLC and Forplax Los Angeles, Inc. dated July 7, 2010 at C-2, and Letter to the Secretary of Commerce regarding the section C questionnaire response of Rocheux International dated July 9, 2010 at C-1.

The model matching hierarchy methodology used for the *Final Results* consists of four criteria (in order of importance): Specification; thickness in microns; thickness code; and surface treatment.<sup>9</sup> The model matching hierarchy used by the Department does not fall under the “ministerial error” definition because it is a methodology that the Department applied correctly. It did not involve any incorrect copying, duplication or unintentional error of any type. This hierarchy methodology is consistent with the hierarchy as described in the Department’s initial questionnaire to Nan Ya regarding this administrative review,<sup>10</sup> and used for the preliminary results. We note that Nan Ya did not comment on the model matching hierarchy in its case brief regarding the preliminary results. We also note that in the *Final Results*, based on the information placed on the record by the other respondent in this administrative review, Shinkong Synthetic Fibers Corporation and Shinkong Materials Technology Co., Ltd., we determined that there are little or no cost differences between surface treatments,<sup>11</sup> which is contradictory to Nan Ya’s argument. As such, we find that, for the *Final Results*, the Department relied upon its intended model matching hierarchy and, thus, determine that the Department did not commit a ministerial error in accordance with section 751(h) of the Act, and 19 CFR 351.224(e).

**Amended Final Results**

Therefore, in accordance with section 751(h) of the Act and 19 CFR 351.224(e), we are amending the *Final Results* of this administrative review of the antidumping duty order on PET Film from Taiwan. The revised weighted-average dumping margin for Nan Ya as a result of these amended final results is as follows:

Manufacturer/Exporter	Original weighted-average margin (percent)	Amended weighted-average margin (percent)
Nan Ya Plastics Corporation, Ltd .....	20.76	18.30

**Assessment Rates**

Pursuant to section 751(a)(2)(A) of the Act, and 19 CFR 351.212(b), the Department shall determine, and U.S.

<sup>9</sup> See, e.g., the Department’s September 3, 2009 Initial Questionnaire to Nan Ya Plastics Corporation at B-9.

<sup>10</sup> See *id.*

<sup>11</sup> See IDM at Comment 1.

Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. We will instruct CBP to liquidate entries of merchandise produced and/or exported by Nan Ya. For assessment purposes, where the respondent reports the entered value for their sales, we calculate importer-specific (or customer-specific) *ad valorem* assessment rates based on the ratio of the total amount of the dumping duties calculated for the examined sales to the total entered value of those same sales. See 19 CFR 351.212(b). However, where the respondent does not report the entered value for their sales, we calculate importer-specific (or customer-specific) per unit duty assessment rates. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after the date of publication of these amended final results of review.

The Department clarified its “automatic assessment” regulation on May 6, 2003. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification applies to entries of subject merchandise during the POR produced by the companies included in the final results of review for which the reviewed companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate non-reviewed entries at the all-others rate of 2.40 percent from the investigation if there is no rate for the intermediate company(ies) involved in the transaction. See *Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Taiwan*, 67 FR 44174 (July 1, 2002), as corrected in 67 FR 46566 (July 15, 2002).

**Cash Deposit Requirements**

The following cash deposit requirements will be effective for any entries made on or after February 22, 2011, the date of publication of the *Final Results*, for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the *Final Results*, as provided by section 751(a)(2)(C) of the Act: (1) For Nan Ya, the cash deposit rate will be the amended weighted-average margin rate shown above in the “Amended Final Results” section of this notice; (2) for previously investigated or reviewed Taiwanese and non-Taiwanese exporters of subject merchandise not listed above that have separate rates, the

cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all Taiwanese exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the Taiwan-wide rate of 2.40 percent; and (4) for all non-Taiwanese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Taiwanese exporters that supplied that non-Taiwanese exporter. These deposit requirements will remain in effect until further notice.

**Disclosure**

We will disclose the calculations performed for these amended final results within five days of the date of publication of this notice to interested parties in accordance with 19 CFR 351.224(b).

**Notification of Interested Parties**

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary’s presumption that reimbursement of antidumping duties occurred, and in the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. 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 terms of an APO is a violation that is subject to sanction.

These amended final results are published in accordance with sections 751(h) and 777(i)(1) of the Act.

Dated: March 29, 2011.

**Ronald K. Lorentzen,**  
*Deputy Assistant Secretary for Import Administration.*

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