

U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).” 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. app. § 2410(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. app. § 2410(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security’s Office of Exporter Services may revoke any Bureau of Industry and Security (“BIS”) licenses previously issued in which the person had an interest in at the time of his conviction.

I have received notice of Gimenez’s conviction for violating the AECA, and have provided notice and an opportunity for Gimenez to make a written submission to BIS, as provided in Section 766.25 of the Regulations. I have received a submission from Gimenez.

Based upon my review and consultations with BIS’s Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Gimenez’s export privileges under the Regulations for a period of 10 years from the date of Gimenez’s conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Gimenez had an interest at the time of his conviction.

Accordingly, it is hereby

*Ordered*

I. Until March 21, 2022, Juan Victoriano Gimenez, with a last known address at: Inmate #—95463–004, FPC Duluth, Federal Prison Camp, P.O. Box 1000, Duluth, MN 55814, and when acting for or on behalf of Gimenez, his representatives, assigns, agents or employees (the “Denied Person”), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as “item”) exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Gimenez by affiliation, ownership, control or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order if necessary to prevent evasion of the Order.

IV. This Order is effective immediately and shall remain in effect until March 21, 2022.

V. In accordance with Part 756 of the Regulations, Gimenez may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this

Order and must comply with the provisions of Part 756 of the Regulations.

VI. A copy of this Order shall be delivered to the Gimenez. This Order shall be published in the **Federal Register**.

Issued this 9th day of May, 2014.

**Eileen M. Albanese,**

*Acting Director, Office of Exporter Services.*

[FR Doc. 2014–11672 Filed 5–19–14; 8:45 am]

**BILLING CODE P**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A–570–916]

**Laminated Woven Sacks From the People’s Republic of China: Notice of Court Decision Not in Harmony With Final Results and Amended Final Results of the Antidumping Duty Administrative Review; 2009–2010**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** On December 13, 2013, the United States Court of Appeals for Federal Circuit (CAFC), issued its decision in *AMS Associates, Inc. v. United States*, 737 F.3d 1338 (CAFC 2013) (*AMS II*), affirming the Court of International Trade’s (CIT) decision in *AMS Associates, Inc. v. United States*, 881 F. Supp. 2d 1374 (CIT 2012) (*AMS I*). In *AMS I*, the CIT held that the Department of Commerce (the Department) exceeded its authority under 19 CFR 351.225(l) by retroactively suspending liquidation of entries of laminated woven sacks (LWS) produced in the People’s Republic of China (PRC) using fabric imported from third-countries. Accordingly, the CIT remanded the case and ordered the Department to issue instructions to U.S. Customs and Border Protection (CBP) to lift the suspension of liquidation and liquidate the affected entries without regard to duties. Consistent with the decision of the CAFC in *Timken*,<sup>1</sup> as clarified by *Diamond Sawblades*,<sup>2</sup> the Department is notifying the public that the final judgment in this case is not in harmony with the Department’s *AR2 Final Results*,<sup>3</sup> that it will liquidate the

<sup>1</sup> *See Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (“*Timken*”).

<sup>2</sup> *See Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (“*Diamond Sawblades*”).

<sup>3</sup> *See Laminated Woven Sacks From the People’s Republic of China: Final Results of Second Antidumping Duty Administrative Review*, 76 FR 21333 (April 15, 2011) (“*AR2 Final Results*”).

entries at issue in *AMS I* and *AMS II* without regard to duties, and that it is amending the effective date of its country of origin determination regarding LWS produced in the PRC from imported fabric.

**DATES:** *Effective Date:* March 24, 2014.

**FOR FURTHER INFORMATION CONTACT:**

Irene Gorelik, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC, 20230; telephone: (202) 482-6905.

**SUPPLEMENTARY INFORMATION:**

**Background**

On August 7, 2008, the Department issued an antidumping duty order on LWS from the PRC.<sup>4</sup> The scope of the *Order* stated that:

The merchandise covered by this investigation is laminated woven sacks. Laminated woven sacks are bags or sacks consisting of one or more plies of fabric consisting of woven polypropylene strip and/or woven polyethylene strip, regardless of the width of the strip; with or without an extrusion coating of polypropylene and/or polyethylene on one or both sides of the fabric; laminated by any method either to an exterior ply of plastic film such as biaxially-oriented polypropylene ("BOPP") or to an exterior ply of paper that is suitable for high quality print graphics; printed with three colors or more in register; with or without lining; whether or not closed on one end; whether or not in roll form (including sheets, lay-flat tubing, and sleeves); with or without handles; with or without special closing features; not exceeding one kilogram in weight. Laminated woven sacks are typically used for retail packaging of consumer goods such as pet foods and bird seed.

*First Administrative Review*

In the first administrative review of the antidumping duty order on LWS from the PRC, the Department preliminarily determined that the country of origin of LWS produced in the PRC from imported woven fabric is the PRC.<sup>5</sup> As a result, the Department issued instructions notifying CBP to continue suspending liquidation of all LWS from the PRC, regardless of the country of origin of the woven fabric, consistent with the suspension of liquidation instructions issued following the *Order*.<sup>6</sup>

<sup>4</sup> See *Notice of Antidumping Duty Order: Laminated Woven Sacks from the People's Republic of China*, 73 FR 45941 (August 7, 2008) ("*Order*").

<sup>5</sup> See *Laminated Woven Sacks from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 75 FR 55568, 55569 (September 13, 2010).

<sup>6</sup> See CBP Message No. 020431 (July 23, 2010); see also CBP Message No. 8234202 (August 21, 2008) (ordering CBP to suspend imports of LWS from the

Following the preliminary results, the Department issued additional instructions to CBP to mitigate inaccurate reporting of entries arising from the technical restrictions of CBP's electronic filing system. These instructions created a series of 10-digit case numbers to allow LWS produced in the PRC from fabric originating in a third country to be properly claimed as LWS subject to the *Order* upon entry into the United States.<sup>7</sup>

In its March 18, 2011 final results, the Department finalized its country of origin determination and continued to find that the LWS finishing process, which includes lamination and printing processes, substantially transforms the inherent nature of the woven fabric input. The Department also continued to find that, when such substantial transformation takes place in the PRC, the country of origin for the produced LWS is the PRC.<sup>8</sup>

*Second Administrative Review*

On September 29, 2010, the Department initiated the second administrative review of LWS from the PRC.<sup>9</sup> Because parties only requested a review of Zibo Aifudi Plastic Packaging Co. Ltd. (Zibo Aifudi), we initiated the review with Zibo Aifudi as the sole mandatory respondent. Thereafter, Zibo Aifudi notified the Department of its intent to withdraw from the review and refused to participate in the review. Thus, in the preliminary results, we determined that, because Zibo Aifudi failed to respond to the Department's antidumping duty questionnaires and withdrew its participation from the review, it was not eligible for a separate rate and should be treated as part of the PRC-wide entity, to which we subsequently assigned an adverse facts available rate.<sup>10</sup>

AMS Associates, Inc., (d/b/a Shapiro Packaging) (AMS), the U.S. importer of LWS exported by Zibo Aifudi, entered an appearance in the second

PRC that were entered or withdrawn from warehouse for consumption on or after January 31, 2008).

<sup>7</sup> See CBP Message No. 0327303 (November 23, 2010); see also CBP Message No. 0327306 (November 23, 2010).

<sup>8</sup> See *Laminated Woven Sacks from the People's Republic of China: Final Results of First Antidumping Order Administrative Review*, 76 FR 14906, 14906-07 (March 18, 2011) ("*AR1 Final Results*") and accompanying Issues and Decision Memorandum at Comments 1b and 1d.

<sup>9</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 75 FR 60076 (September 29, 2010).

<sup>10</sup> See *Laminated Woven Sacks From the People's Republic of China: Preliminary Results of the Second Administrative Review*, 75 FR 81218 (December 27, 2010).

administrative review and filed its case brief, contending that the Department's country of origin determination in the first administrative review was procedurally erroneous and that the Department had no statutory or regulatory basis to issue suspension instructions to CBP in the context of an annual administrative review. However, AMS did not challenge the Department's (1) country of origin determination on LWS produced in the PRC from imported fabric, (2) preliminary determination of Zibo Aifudi's ineligibility for a separate rate, (3) application of adverse facts available to the PRC-wide entity, or (4) the adverse facts available rate applied to the PRC-wide entity. In the *AR2 Final Results*, the Department continued to find that the application of adverse facts available was warranted for the PRC-wide entity and that it followed the correct procedures in making the country of origin determination in the prior review.<sup>11</sup>

**Court Rulings**

Subsequently, AMS challenged the Department's *AR2 Final Results*, arguing that the Department did not act in accordance with its own regulations by conducting a scope analysis during the course of the first administrative review and exceeded its authority by issuing instructions to CBP to suspend LWS produced in the PRC from imported fabric.<sup>12</sup> On December 18, 2012, the CIT held that the Department exceeded its authority by suspending liquidation of all entries of LWS produced in the PRC from imported fabric, which AMS reported as non-subject merchandise based solely on the country of origin of the fabric input.<sup>13</sup> The CIT remanded the case and ordered the Department to issue instructions to CBP to lift the suspension and liquidate the affected entries (LWS produced in the PRC from imported fabric) without regard to duties.<sup>14</sup>

On December 21, 2012, the United States moved to stay execution of the judgment pending appeal. On January 11, 2013, the CIT granted the United States' motion and ordered that execution of the judgment, including liquidation of the entries at issue, be stayed through the conclusion of any appeal.

On appeal, the CAFC affirmed the CIT's judgment, holding that the Department (1) erred in failing to

<sup>11</sup> See *AR2 Final Results*, 76 FR at 21334, and accompanying Issues and Decision Memorandum at Comment 1.

<sup>12</sup> See *AMS I*, 881 F. Supp. 2d at 1378-79.

<sup>13</sup> See *id.*, at 1382-83.

<sup>14</sup> See *id.*, at 1383.

conduct a formal scope inquiry in this case because the scope of the original antidumping order was unclear, and (2) exceeded its authority under 19 CFR 351.225(l)(2) by ordering the suspension of liquidation retroactive to the beginning of the period of review when the order did not clearly cover LWS manufactured in the PRC from imported fabrics.<sup>15</sup>

#### Timken Notice

In its decision in *Timken*, 893 F.2d at 341, as clarified by *Diamond Sawblades*, the CAFC held that, pursuant to section 516A(e) of the Act, the Department must publish a notice of a court decision that is not “in harmony” with a Department determination and must suspend liquidation of entries pending a “conclusive” court decision. The CAFC’s December 13, 2013, judgment in *AMS II* constitutes a final decision of that court that is not in harmony with the *AR2 Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, as instructed, the Department will lift the suspension of liquidation of the entries at issue.

#### Amended Final Results

Because there is now a final court decision, we are amending the *AR2 Final Results* to reflect the results of the litigation. The revised effective date of the Department’s country of origin determination is now the publication date of the final results of the first administrative review, March 18, 2011.<sup>16</sup> Accordingly, the Department will instruct CBP to liquidate entries of LWS produced in the PRC from imported fabric that were entered, or withdrawn from warehouse, for consumption, before March 18, 2011 without regard to duties.<sup>17</sup> The Department will release the draft instructions to interested parties prior to transmission of these instructions to CBP.

This notice is issued and published in accordance with sections 516A(e), 751(a)(1), and 777(i)(1) of the Act.

Dated: May 14, 2014.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Enforcement and Compliance.*

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<sup>15</sup> See *AMS II*, 737 F.3d at 1344.

<sup>16</sup> See *AR1 Final Results*, 76 FR at 14906.

<sup>17</sup> See *AMS II*, 737 F.3d at 1344 (affirming a remand to lift the liquidation suspension for the entries which were the subject of the *AMS* litigation).

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–351–841]

#### Polyethylene Terephthalate Film, Sheet, and Strip From Brazil: Rescission of Antidumping Duty Administrative Review; 2012–2013

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (the Department) is rescinding the administrative review of the antidumping duty order on polyethylene terephthalate film, sheet, and strip (PET film) from Brazil for the period November 1, 2012 through October 31, 2013.

**DATES:** *Effective Date:* May 20, 2014.

**FOR FURTHER INFORMATION CONTACT:** Tyler Weinhold or Robert James, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–1121 or (202) 482–0649, respectively.

**SUPPLEMENTARY INFORMATION:** On December 30, 2013, based on a timely request by DuPont Teijin Films, Mitsubishi Polyester Film, Inc. and SKC, Inc. (collectively, petitioners), the Department published in the **Federal Register** a notice of initiation of an administrative review of the antidumping duty order on PET film from Brazil covering the period November 1, 2012 through October 31, 2013.<sup>1</sup> The review covers one firm, Terphane, Ltda. (Terphane). On March 31, 2014, petitioners withdrew their request for review of Terphane.

#### Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review if the party that requested the review withdraws its request within 90 days of the date of publication of the notice of initiation of the requested review. Petitioners withdrew their request within the 90-day deadline.<sup>2</sup> No other party requested an administrative review of this antidumping duty order. As a result, we are rescinding the administrative review

<sup>1</sup> See *Initiation of Antidumping Duty and Countervailing Duty Administrative Reviews, and Request for Revocation, in Part*, 78 FR 79392 (December 30, 2013).

<sup>2</sup> The 90-day deadline fell on Sunday, March 30, 2014; therefore, petitioners had until the next business day, or Monday, March 31, 2014, to withdraw their request for review.

of PET film from Brazil for the period November 1, 2012 through October 31, 2013.

#### Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions to CBP 15 days after the publication of this notice.

#### Notifications

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 Department’s presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as a final 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, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or 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 issued and published in accordance with section 751 of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: May 13, 2014.

**Christian Marsh,**

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

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