requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, APO/Dockets, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (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.

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

Dated: April 25, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–9846 Filed 5–2–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–549–825)

Notice of Preliminary Determination of Sales at Not Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip from Thailand

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

EFFECTIVE DATE: May 5, 2008.

SUMMARY: The U.S. Department of Commerce (the Department) preliminarily determines that polyethylene terephthalate film, sheet, and strip (PET Film) from Thailand is not being, nor 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). Interested parties are invited to comment on this preliminary determination.

FOR FURTHER INFORMATION CONTACT: Stephen Bailey or Angelica Mendoza, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0193, or (202) 482–3019, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 17, 2007, the Department initiated the antidumping duty investigation of PET Film from Thailand. *See Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates: Initiation of Antidumping Duty Investigations*, 72 FR 60801 (October 26, 2007) (*Notice of Initiation*).

The Department set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Notice of Initiation. See Notice of Initiation.* On November 15, 2007, Avery Dennison Fasson Roll North America (Avery Dennison) requested that the Department find ''release liner,'' a PET film product treated on one or both sides with a specially–cured silicon coating, is outside the scope of these investigations. Petitioners (DuPont Teijin Films, Mitsubishi Polyester Film of America, Inc., SKC, Inc. and Toray Plastics (America), Inc. (collectively, petitioners)) objected to Avery Dennison's request on November 29, 2007; petitioners re–submitted their objections with amended bracketing on December 14, 2007, and the document was accepted for the record on that date.

On August 28, 2007, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of PET Film from Brazil, China, Thailand, and the United Arab Emirates (UAE) are materially injuring the U.S. industry and the ITC notified the Department of its findings. *See Polyethylene Terephthalate Film, Sheet, and Strip From Brazil, China, Thailand, and the United Arab Emirates Case Number: 731–TA–1131–1134*, 72 FR 67756, (November 30, 2007) (*Preliminary ITC Determination*).

Polyplex (Thailand) Public Company Ltd. (Polyplex Thailand) and Polyplex (Americas) Inc. (PA) (collectively Polyplex) was issued an antidumping duty questionnaire on November 29, 2007. The Department received the Section A response from Polyplex on January 4, 2008 (AQR), and received the Sections B and C responses from Polyplex on January 18, 2008 (BCQR).

On January 23, 2008, petitioners requested that the Department postpone the preliminary determination by 50 days. The Department published an extension notice on February 11, 2008, which set the new deadline for the preliminary determination at April 25, 2008. *See Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 73 FR 7710 (February 11, 2008).

Petitioners filed comments on Polyplex's Sections A, B and C responses on February 13, 2008. The Department issued a supplemental questionnaire regarding Polyplex's Sections A, B and C responses on February 19, 2008. Also on February 19, 2008, based on a timely allegation filed by petitioners on February 6, 2008, the Department initiated a sales–below-cost investigation for Polyplex, finding reasonable grounds to believe that Polyplex made comparison market sales of PET Film at prices below its cost of production (COP). *See* ''Sales Below Cost of Production'' section below for further information. Consequently, the Department requested that Polyplex respond to Section D of the Department's antidumping duty questionnaire. We received Polyplex's Section D response on March 11, 2008.

On March 12, 2008, Polyplex filed its response to the Department's supplemental questionnaire regarding Sections A–C (SABCQR). Additionally on March 12, 2008, a U.S. customer of Polyplex filed a response to Department questions regarding this U.S. customer's relationship with Polyplex Thailand.

On March 14, 2008, the Department requested a SAS version of Polyplex's comparison market, United States market, and cost datasets submitted with its SABCQR, which Polyplex did on March 17, 2008. *See* the Department's March 17, 2008, Memorandum to the File.

On March 21, 2008, petitioners filed a targeted dumping allegation on sales made by Polyplex in the U.S., and also filed section D comments. On March 24, 2008, the Department issued a section D supplemental questionnaire to Polyplex. On March 31, 2008, Polyplex filed comments on petitioners' targeted dumping allegation.

The Department issued a second supplemental questionnaire to Polyplex concerning the company's Sections A, B, C, and D responses and information regarding the value added to PET Film by one U.S. customer on April 1, 2008.

On April 7, 2008, the Department issued a memorandum in which it determined that Polyplex Thailand was affiliated with one of Polyplex Thailand's U.S. customers that produces non–subject merchandise using PET Film. *See* Affiliation section below. Because the name of this customer is proprietary we will refer to it here as ''Company A.''

In light of our finding of affiliation, on April 7, 2008, the Department requested that Polyplex Thailand and Company A respond to Section E (Cost of Further Manufacture or Assembly Performed in the United States) of the Department's November 29, 2007, antidumping questionnaire in regard to the PET Film

further processed by the U.S. customer after importation.

On April 8, 2008, Polyplex submitted its section D supplemental questionnaire response.

Upon review of petitioners' targeted dumping allegation, we determined that further information was needed in order to adequately analyze petitioners' allegation, and issued a targeted dumping supplemental questionnaire to petitioners on April 8, 2008.

On April 9, 2008, Polyplex submitted a letter requesting that the Department not collect section E information because the value added by Company A substantially exceeds the value of the PET Film input. Because the application of the Department's standard further manufacture methodology pursuant to section 772(d)(2) of the Act would be particularly burdensome based on the special facts of this case, Polyplex requested that the Department apply section 772(e) of the Act (the ''special rule'') and base the margin for Company A sales on prices of other subject merchandise sold by Polyplex Thailand and PA to companies other than Company A pursuant to the special rule.

On April 11, 2008, Polyplex filed its second supplemental questionnaire response regarding Sections A, B, C, and D. Petitioners filed their targeted dumping supplemental questionnaire response on April 16, 2008. Also on April 16, 2008, petitioners submitted comments regarding the Department's methodology for calculating the margin for sales made to Company A in light of the Department's affiliation determination. Because there was a need for supplemental information regarding this allegation, we did not have sufficient time to analyze the targeted dumping allegation prior to the April 25, 2008, deadline for issuance of the preliminary determination. We intend to address this allegation in full upon receipt of a satisfactory response by petitioners to our request for additional information. Similarly, we will address in full petitioner's April 16, 2008, comments regarding the Department's methodology for calculating the margin for sales made to Company A in light of the Department's affiliation determination for the final determination.

April 17, 2008, the Department telephoned counsel to Polyplex and requested that Polyplex resubmit its April 11, 2008, section D supplemental cost dataset to correct certain errors identified by the Department. Polyplex resubmitted its cost database on April 18, 2008, correcting the errors in question. *See* the Department's April 17, 2008, Memorandum to the File.

Also on April 17, 2008, Polyplex submitted a request for extension in filing its response to Section E (Cost of Further Manufacture or Assembly Performed in the United States) of the Department's November 29, 2007, antidumping questionnaire from April 21, 20008, until May 2, 2008. The Department granted this request on April 21, 2008. *See* the Department's April 18, 2008, Memorandum to the File.

On April 23, 2008, the Department requested a SAS version of the cost dataset Polyplex originally submitted with its April 18, 2008, section D supplemental questionnaire response. Polyplex submitted a SAS version of its cost dataset on April 24, 2008. *See* the Department's April 23, 2008, Memorandum to the File.

Period of Investigation

The period of period of investigation (POI) is July 1, 2006, to June 30, 2007.

Scope of Investigation

The products covered by this investigation are all gauges of raw, pre–treated, or primed PET Film, whether extruded or co–extruded. 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. Also excluded is Roller transport cleaning film which has at least one of its surfaces modified by application of 0.5 micrometers of SBR latex. Tracing and drafting film is also excluded. PET Film is classifiable under subheading 3920.62.00.90 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings are provided for convenience and purposes of Customs and Border Protection (CBP), our written description of the scope of this investigation is dispositive.

Party Comments on Scope and Model Matching

On October 30, 2007, the Department asked all parties in this investigation and in the concurrent antidumping duty investigations of PET Film from Brazil, the People's Republic of China (PRC), and the United Arab Emirates (UAE), for comments on the appropriate product characteristics for defining individual products. In addition, the Department requested that all parties in this investigation and in the concurrent antidumping duty investigations of PET Film Brazil, the PRC, and the UAE submit comments on the appropriate model matching methodology. See Letter from Robert James, Program Manager, AD/CVD Enforcement 7, dated October 7, 2007.

We received comments from petitioners on November 6, 2008, requesting that the Department include the grade of PET Film in the model match criteria. Additionally, petitioners requested that the Department include a field identifying whether PET Film has been coextruded. In its November 29, 2007, questionnaire, the Department requested that Polyplex report the grade of the PET Film, but did not request a field identifying whether the PET Film is coextruded. For purposes of this preliminary determination, the Department has determined that it is unnecessary to change the proposed product characteristics and model matching methodology with regard to coextrusion. For purposes of distinguishing subject merchandise, the Department will take into account the grade of the PET Film, as advocated by petitioners in their submission.

On November 15, 2007, Avery Dennison requested that the Department find that ''release liner,'' a PET Film product treated on one or both sides with a specially–cured silicon coating, is outside the scope of these investigations. Petitioners filed a submission objecting to Avery Dennison's request on November 29, 2007; petitioners re–submitted their objections with amended bracketing on December 14, 2007, and the document was accepted for the record on that date. Petitioners argue that release liner is ''PET film that clearly falls within the scope of these investigations.'' *See* Petitioners' December 14, 2007, submission at 1 and 2. Avery Dennison responded to petitioners' comments on February 1, 2008.

In accordance with section 731(i) of the Act, we have determined that the descriptions of the merchandise contained in the petition and in our *Notice of Initiation* support the conclusion that release film is of the same class or kind of merchandise covered by the scope of the proposed antidumping duty order. *See* also generally 19 CFR 351.225(k)(1). The product descriptions in the petition and in the Department's *Notice of Initiation* specifically exclude finished films with a ''performance enhancing resinous or inorganic layer of more than 0.00001 inches thick.'' There is nothing in the proposed scope language of either the petition or our *Notice of Initiation* that excludes products bearing a performance enhancing resinous or inorganic layer of less than 0.00001 inches from the scope of the order. Moreover, there is no language in either the proposed scope language of the

petition or our *Notice of Initiation* that limits the scope of the investigation to ''PET base film,'' (*i.e.*, PET film prior to the application of in–line coatings), as Avery Dennison suggests. In addition, release liner shares the chemical composition of PET film described in the proposed scope of the petition and *Notice of Initiation*.

One of the purposes of a less than fair value investigation is to decide the merchandise specifically covered by the scope of the ultimate antidumping duty order. Based upon the foregoing, we have preliminarily determined that release film is of the same class or kind of merchandise as that described in the Petition and in the Department's *Notice of Initiation*. Thus, we have determined that release film is covered by the scope of the antidumping investigation of PET film from Thailand. For a full discussion of this issue, see the memorandum titled ''Antidumping Duty Investigations on Polyethylene Terephthalate Film, Sheet, and Strip (PET film) from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates,'' from Micheal J. Heaney, Senior Case Analyst, to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, dated April 25, 2008, issued concurrently with this notice.

We have relied on four criteria to match U.S. sales of subject merchandise to comparison market sales of the foreign like product: grade, specification, thickness, and surface treatment. Where there were no sales of identical merchandise in the comparison market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed above.

Respondent Selection

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. The Department determined that there were six Thai producers/exporters of PET Film that made shipments to the United States during the POI. In the Department's *Respondent Selection Memorandum*, we determined that, in light of resource constraints, it would not be practicable in this investigation for us to examine all known producers or exporters of subject merchandise. *See* the November 28, 2007, Memorandum to Deputy Assistant Secretary Stephen J. Claeys, titled ''Antidumping Duty Investigation on Polyethylene Terephthalate Film, Sheet, and Strip from Thailand (A–549–825): Respondent Selection'' (*Respondent Selection Memorandum*). Further, no party to this case argued for the examination of all companies. Accordingly, pursuant to section 777A(c)(2) of the Act, the Department determined that it would investigate only a limited number of exporters or producers. Section 77A(c)(2) allows the Department to select respondents either through a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or by using the exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined.

In selecting the respondents in this investigation, we determined that it is most appropriate to choose the largest producers/exporters in order to cover the greatest possible export volume, pursuant to section 777A(c)(2)(1)(B) of the Act. The petition and the Department identified a single producer and exporter of PET Film from Thailand, Polyplex, who accounted for the overwhelming majority of subject merchandise exported to the United States during the POI. Therefore, we concluded that we would review only Polyplex's exports for purposes of this investigation. *See* Respondent Selection Memorandum.

Date of Sale

Section 351.401(i) of the Department's regulations states 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 regulations further provide 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. *See* 19 CFR 351.401(i).

Polyplex reported the sales invoice date as the date of sale for all sales in the comparison market and the U.S. market, except for export price (EP) sales, in which case Polyplex reported the bill of lading date as the date of sale. *See* BCQR at B–17 and C–16, respectively.

In the comparison market, Polyplex stated on pages 27–29 of its AQR that changes in price and quantity sometimes occur after the production order is issued up until the time of shipment, and that changes did occur during the POI. *See* page 10 of Polyplex's April 11, 2008, submission. Additionally, Polyplex stated that for accounting purposes it recognizes a sale based on date of invoice.

For EP sales, Polyplex stated on page 6 of its April 11, 2008, submission that changes occur between the order date and invoice. Additionally, on page 29 of its AQR, Polyplex stated that it issues a commercial invoice to the Thai Customs Department for export approval and to obtain an export entry number. Polyplex stated that it does not book the sale in its accounting system until the goods are cleared by Thai customs (*i.e.*, Polyplex's receipt of the bill of lading from Thai customs).

For constructed export price (CEP) sales, Polyplex provided invoice date as the sale date based on the invoice from its U.S. affiliate to the first unaffiliated U.S. customer or to Company A discussed below in the section *U.S. Sales of Further–Manufactured PET Film. See* page C–16 of Polyplex's sections BCQR. Similar to the explanation for EP sales, Polyplex stated on page 6 of its April 11, 2008, submission that changes occur between the order date and invoice.

Based on the responses of Polyplex, and having no record evidence that would indicate otherwise, we preliminarily determine that the sales invoice date is the appropriate date of sale for the comparison market and for CEP sales in the U.S. market, while bill of lading date is the appropriate date of sale for Polyplex's EP sales. For a further discussion of this issue, *see* Polyplex Preliminary Analysis Memo.

Affiliation

On April 7, 2008, the Department determined that Polyplex Thailand and PA are affiliated with Company A pursuant to section 771(33)(F) of the Act and 19 CFR 351.102(b). Due to the proprietary nature of this issue, *see* the Department's Memorandum to the File, from Stephen Bailey, Case Analyst, and Angelica Mendoza, Program Manager, through Richard Weible, Director Office 7, dated April 7, 2008 (''Affiliation Memo'').

Due to this affiliation, as noted above, on April 7, 2008, the Department requested that Polyplex Thailand and Company A respond to Section E (Cost of Further Manufacture or Assembly Performed in the United States) of the Department's November 29, 2007, questionnaire for purchases of PET Film from Polyplex Thailand and PA.

U.S. Sales of Further–Manufactured PET Film

During the POI, Polyplex Thailand and its U.S. affiliate, PA, sold PET Film to Company A, which further manufactured the PET Film into non–subject merchandise. Company A did not sell PET Film directly acquired from

Polyplex Thailand or PA in the United States during the POI, but rather further processed the material and resold it as non–subject merchandise. After examining the various relationships between Polyplex Thailand, PA, and Company A, the Department, as noted above, has preliminarily determined that Company A is affiliated with both Polyplex Thailand and PA. As noted above, on April 9, 2008, Polyplex requested that the Department not collect section E information because the value added by Company A substantially exceeds the value of the PET Film input. Polyplex requested that the Department instead apply the special rule found at section 772(e) of the Act and base the margin for Company A's sales of further–manufactured goods on prices of other subject merchandise sold by Polyplex Thailand and PA to companies other than Company A.

Polyplex's Argument For Use of the Special Rule

Polyplex notes that the special rule, as discussed in section 772(e) of the Act, provides that where the subject merchandise is imported by a person affiliated with the exporter or producer and the value added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise, the Department shall determine the CEP for such merchandise using either 1) the price of identical subject merchandise sold by the exporter or producer to an unaffiliated person, or 2) the price of other subject merchandise sold by the exporter or producer to an unaffiliated person. If there is not a sufficient quantity of sales to provide a reasonable basis for comparison under subsets 1 or 2, or the Department determines that neither of the prices described is appropriate, then the CEP may be determined on any other reasonable basis.[1]

In arguing for application of the special rule, Polyplex notes the following: 1) Company A's value–added substantially exceeds the value of the PET Film input, 2) Company A made a ''very substantial'' number of further manufactured products that contained PET Film (both subject and non–subject merchandise) during the POI, 3) Company A sold further manufactured products containing PET Film in a very high number of invoices and line items during the POI, 4) Company A manufactured the further manufactured product at many plants in the United States, and 5) Company A purchased PET Film from many producers during the POI, and cannot identify the producer of the PET Film used in the further manufactured product based on its books and records. *See* page 4 of Polyplex's April 9, 2008, submission. Polyplex maintains that all of the above–mentioned facts were present in the Indian investigation of PET Film, of which Polyplex Corporation, Ltd. (India) (Polyplex India), was the respondent. *See Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip From India*, 67 FR 34899 (May 16, 2002) and accompanying Issues and Decision Memorandum at Comment 13 (PET Film from India Decision Memo).

Polyplex contends that the facts in the instant investigation are similar to the facts in Silicon Metal from Brazil, where the Department also applied the special rule. *See Silicon Metal From Brazil: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Order in Part*, 66 FR 40980 (August 6, 2001) (*Silicon Metal from Brazil*). In *Silicon Metal from Brazil*: 1) the U.S. affiliate of the respondent also further manufactured the subject merchandise it purchased from respondent into numerous products; 2) the respondent was unable to trace the subject merchandise purchased by the affiliate to the manufactured product since the subject merchandise was purchased from different producers and commingled in the production process; and 3) products containing subject merchandise were processed at a variety of plants both in the United States and overseas, making it difficult to assess the value added solely in the united States. Polyplex notes that in *Silicon Metal from Brazil*, the Department applied the special rule due to the burden placed on the Department in calculating a dumping margin for the subject merchandise imported by the U.S. affiliate.

Polyplex argues that the Department has also applied the special rule in *Lemon Juice from Mexico. See Notice of Preliminary Determinations of Sales at Less Than Fair Value and of Critical Circumstances in Part: Lemon Juice from Mexico*, 72 FR 20830 (April 26, 2007). In Lemon Juice from Mexico, Polyplex maintains that the Department applied the special rule because ''the value added in the United States is likely to exceed substantially the value of the subject merchandise and that is a sufficient quantity of U.S. sales of non–further-processed merchandise to provide a reasonable basis for comparison to normal value.'' *See Lemon Juice from Mexico*, 72 FR 20833. Polyplex contends that similar to Lemon Juice from Mexico, the Department should apply the special rule for Company A's purchases of subject merchandise from Polyplex Thailand and PA.

Polyplex proposes two alternate special rule methodologies. First, Polyplex suggests that the Department base the margin for further manufactured sales on the price of other subject merchandise sold to unaffiliated U.S. customers, *i.e.*, all other sales excluding sales to Company A. Polyplex contends that this methodology was used by the Department in other special rule decisions in the past. Alternatively, Polyplex suggests that Department rely on the ''arm's length prices'' from Polyplex and PA (Polyplex's U.S. sales affiliate) to Company A.

Petitioner's Comments on Use of the Special Rule

In its April 16, 2008, comments, petitioners argue that the Department should asses the dumping margin on sales to Company A using the margin calculated on sales of the identical grade of merchandise sold to customers in the targeted group of customers. Because of the timing of petitioner's comments so close to the preliminary determination date, we did not have sufficient time to analyze petitioner's comments prior to the April 25, 2008, deadline for issuance of the preliminary determination. We intend to address this allegation in full for purposes of the final determination.

Department's Analysis For Use of the Special Rule

The information on the record indicates that the value added in the United States substantially exceeds the value of the subject merchandise and that any potential accuracy gained by applying the standard methodology is likely outweighed by the burden of its application. Specifically, the significant

[1]With respect to the specified alternative methods the Department may use after invoking the special rule, the Statement of Administrative Action notes:

The alternative methods for establishing export price are: (1) the price of identical subject merchandise sold by the exporter or producer to an unaffiliated person; or (2) the price of other subject merchandise sold by the exporter or producer to an unaffiliated person. There is no hierarchy between these alternative methods of establishing the export price. If there is not a sufficient quantity of sales under either of these alternatives to provide a reasonable basis for comparison, or if the Department determines that neither of these alternatives is appropriate, it may use any other reasonable method to determine constructed export price, provided that it provides to interested parties a description of the method chosen and an explanation of the basis for its selection. Such a method may be based upon the price paid to the exporter or producer by the affiliated person for the subject merchandise, if the Department determines that such a price is appropriate.

See URAA, Statement of Administrative Action, H. Doc 316, Vol. 1, 103d Cong., (1994) (*SAA*) at 826.

number of models of further manufactured products produced and sold by Company A during the POI and the inability of Company A to identify the source of the PET film used in a particular further manufactured product greatly complicates the analysis required to apply the standard methodology. Furthermore, the fact that Company A is unable to identify the source of the PET film used in a particular further manufactured product, and both Polyplex Thailand and PA sold PET film to Company A, further complicates the analysis by requiring the Department to develop assumptions about the adjustments that need to be made in order to calculate net U.S. price.

Given the forgoing, and the fact that there is a sufficient quantity of non–further processed subject merchandise sales to unaffiliated parties in the United States to provide a reasonable basis for comparison under the special rule, we have determined that it is appropriate to apply the special rule of section 772(e) of the Act in this case.

In this proceeding, we have determined that it is appropriate to base the dumping margins for Polyplex's further manufactured sales on the weighted–average dumping margins calculated on sales of other subject merchandise sold to unaffiliated U.S. customers.

Fair Value Comparisons

To determine whether sales of PET Film from Thailand were made in the United States at less than normal value (NV), we compared the EP or CEP to the NV, as described in the ''Export Price and Constructed Export Price'' and ''Normal Value'' sections below. In accordance with section 777A(d)(i) of the Act, we calculated the weighted–average prices for NV and compared these to the weighted–average of EP (and CEP), when appropriate.

Export Price and Constructed Export Price

For the price to the United States, we used, as appropriate, EP or CEP, in accordance with sections 772(a) and (b) of the Act. Pursuant to section 772(a) of the Act, we used the EP methodology when the merchandise was sold by the producer or exporter outside the United States directly to the first unaffiliated purchaser in the United States prior to importation and when CEP was not otherwise warranted based on the facts on the record. We calculated CEP for those sales where a person in the United States, affiliated with the foreign exporter or acting for the account of the exporter, made the sale to the first unaffiliated purchaser in the United States of the subject merchandise. *See* section 772(b) of the Act. We based EP and CEP on the packed prices charged to the first unaffiliated customer in the United States and the applicable terms of sale, where appropriate.

We calculated EP based on prices charged to the first unaffiliated U.S. customer. We used the bill of lading date as the date of sale.[2] We based EP on the packed free on board (FOB) prices to the first unaffiliated purchasers outside Thailand. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act, including foreign inland freight, foreign inland insurance, and foreign brokerage and handling.

We calculated CEP based on prices charged to the first unaffiliated U.S. customer after importation, where appropriate. We used the sale invoice date as the date of sale. We based CEP on the gross unit price from PA to its unaffiliated U.S. customers, making adjustments where necessary for billing adjustments, pursuant to section 772(c)(1) of the Act. Where applicable, the Department made deductions for movement expenses (foreign inland freight, foreign inland insurance, foreign brokerage and handling, international freight, U.S. movement from warehouse to customer, U.S. customs duty and brokerage, marine insurance and warehousing), in accordance with section 772(c)(2) of the Act and section 351.401(e) of the Department's regulations. In accordance with sections 772(d)(1) and (2) of the Act, we also deducted, where applicable, U.S. direct selling expenses, including credit expenses, U.S. indirect selling expenses, and U.S. inventory carrying costs incurred in the United States and Thailand associated with economic activities in the United States. We also deducted CEP profit in accordance with section 772(d)(3) of the Act.

Normal Value

A. Home Market Viability and Comparison Market Selection

To determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared respondent's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. Pursuant to section 773(a)(1)(B)(i) of the Act, because Polyplex Thailand had an aggregate volume of home market sales of the foreign like product that was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market is viable for comparison purposes. Accordingly, we calculated NV for Polyplex based on sales prices to Thai customers.

B. Cost of Production Analysis

Based on our analysis of the petitioners' allegation, we found that there were reasonable grounds to believe or suspect that Polyplex Thailand's sales of PET Film in the home market were made at prices below its COP. Accordingly, pursuant to section 773(b) of the Act, we initiated a sales–below-cost investigation to determine whether Polyplex Thailand's sales were made at prices below its COP. See Memorandum to Richard Weible, Director, Office 7, AD/CVD Operations, from The Team entitled ''The Petitioners' Allegation of Sales Below the Cost of Production for Polyplex Public Company Ltd. and Polyplex Americas, Inc.'' dated February 19, 2008.

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated the respondent's COP based on the sum of its costs of materials and conversion for the foreign like product, plus an amount for general and administrative (G&A) expenses and financial expenses. *See* the ''Test of Comparison Market Sales Prices'' section below for the treatment of comparison market selling expenses.

The Department relied on the COP data submitted by Polyplex in its section D questionnaire and supplemental questionnaire responses for the COP calculation with the exception of the financial expense ratio. We have recalculated the financial expense ratio to include the net amount of the foreign exchange gains and losses recognized by Polyplex's parent company in its 2006–2007 consolidated financial statements and exclude the interest income offset related to interest charges collected from customers for late payment.

For a complete discussion of the changes made to the cost information submitted by Polyplex, see Memorandum to Neal M. Halper, Director, Office of Accounting, titled ''Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination - Polyplex (Thailand) Public Company Ltd. and Polyplex (Americas) Inc.,'' dated April 25, 2008 (Polyplex Cost Calculation Memo).

2. Test of Comparison Market Sales Prices

[2] *See* the Department's Sales Analysis Memorandum for a further discussion of this issue.

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

3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below–cost sales of that product because we determined that the below–cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product during the POI were at prices less than COP, we determined that such sales have been made in ''substantial quantities.'' *See* section 773(b)(2)(C) of the Act. Further, the sales were made within an extended period of time, in accordance with section 773(b)(2)(B) of the Act, because we examined below–cost sales occurring during the entire POI. In such cases, because we compared prices to POI–average costs, we also determined 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.

We found that, for certain products, more than 20 percent of Polyplex's 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. We therefore excluded these sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

C. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on packed prices to unaffiliated customers in Thailand and matched U.S. sales to NV. We made deductions, where appropriate, for discounts, rebates, movement expenses, and packing pursuant to section 773(a)(6)(B) of the Act. When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411(a) and (b). We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise. *See* 19 CFR 351.411(b). We also made adjustments for differences in circumstances of sale (COS) as appropriate (*i.e.*, commissions and credit), in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410.

In addition, for comparisons made to CEP sales, we only deducted Thai credit expenses from comparison market prices, because U.S. credit expenses were deducted from U.S. price, as noted above and in accordance with section 772(c)(2) of the Act.

D. Calculation of Normal Value Based on Constructed Value

Section 773(a)(4) of the Act provides that where NV cannot be based on comparison–market sales, NV may be based on constructed value (CV). Accordingly, for PET Film for which we could not determine the NV based on comparison–market sales, either because there were no useable sales of a comparable product or all sales of the comparable products failed the COP test, we based NV on the CV.

Section 773(e) of the Act provides that the CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for SG&A expenses, profit, and U.S. packing costs. We calculated the cost of materials and fabrication, selling and administrative (SG&A), and interest based on the methodology described in the ''Cost of Production Analysis'' section, above.

We based profit on the actual amounts incurred and realized by Polyplex in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the comparison market, in accordance with section 773(e)(2)A) of the

Act.

We made adjustments to CV for differences in COS in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. For comparisons to EP, we made COS adjustments by deducting direct selling expenses incurred on home market sales from, and adding U.S. direct selling expenses to, CV.

E. Level of Trade/Constructed Export Price Offset

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP or CEP transaction. The LOT in the comparison market is the LOT of the starting–price sales in the comparison market or, when NV is based on CV, the LOT of the sales from which we derive SG&A expenses and profit. With respect to U.S. prices for EP transactions, the LOT is also that of the starting–price sale, which is usually from the exporter to the first unaffiliated importer. *See* section 351.412(c)(i) of the Department's regulations. For CEP, the LOT is that of the constructed sale from the exporter to the affiliated importer. *See* section 351.412(c)(ii) of the Department's regulations. *See also Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314 (Fed. Cir. 2001) (*Micron Technology*).

To determine whether comparison market sales were at a different LOT from U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. Under the Department's LOT practice, if the comparison market sales are at different LOTs, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, the Department makes an LOT adjustment in accordance with section 773(a)(7)(A) of the Act. For CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the customer. We also analyze whether different selling activities are performed, and whether any price differences (other than those for which other allowances are made under the Act) are shown to be wholly or partly due to a difference in LOT between the CEP and NV. Under section 773(a)(7)(A) of the Act, we further make an upward or downward adjustment to NV for LOT if the difference in LOT involves the performance of different selling activities and is demonstrated to affect price comparability, based on a pattern of consistent price differences between sales at different LOTs in the country in which NV is determined. Finally, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP, but the data available do not provide an appropriate basis to determine a LOT adjustment, we reduce NV by the amount of indirect selling expenses incurred in the foreign comparison market on sales of the foreign like product, but by no more than the amount of the indirect selling expenses incurred for CEP sales. See section 773(a)(7)(B) of the Act (the CEP offset provision).

In analyzing differences in selling functions, we determine whether the

LOTs identified by the respondent are meaningful. *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27371 (May 19, 1997). If the claimed LOTs are the same, we expect that the functions and activities of the seller should be similar. Conversely, if a party claims that LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar. *See Porcelain–on-Steel Cookware from Mexico: Final Results of Administrative Review*, 65 FR 30068 (May 10, 2000) and accompanying Issues and Decision Memorandum at Comment 6.

In the present investigation, Polyplex did not request a LOT adjustment. *See* BCQR at B–28. In order to determine whether the comparison market sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the ''channel of distribution''), including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale.

Polyplex reported two channels of distribution in the comparison market (*i.e.*, Thailand), distributors and end–users. Polyplex reported its selling functions to both distributors and end–users in the comparison market as: technical services/support, customer interaction, sales calls, marketing research, order processing, price negotiation, credit/payment collection, delivery/freight, inventory maintenance (non–consignment sales), inventory maintenance (consignment sales), sales forecasting, sales promotion, and warranty. We examined the selling activities reported for each channel of distribution and found that Polyplex's level of selling functions to its comparison market customers did not vary significantly by channel of distribution. Specifically, Polyplex performed the same selling functions at a similar level of performance for sales in both comparison market channels of distribution (*e.g.*, price negotiation, credit/payment collection, delivery/freight, inventory maintenance (non–consignment sales), sales forecasting, sales promotion, and warranty). *See* AQR at Exhibit 8 (*i.e.*, selling functions chart) and Exhibit S1 of the SABCQR. We find that the only meaningful difference between the two channels in terms of the services provided in the stages of marketing (and the degree of performance of those services) is that Polyplex provides customer interaction, sales calls, and order processing services at a higher degree for its end–use customers than distributors. *Id.* We do not find these differences alone to be sufficient for finding more than one LOT. Therefore, we preliminarily find that the selling functions for the reported channels of distribution constitute one LOT in the comparison market.

Polyplex reported that its EP and CEP sales to the United States were made through four channels of distribution: 1) CEP PA direct to customer drop ship sales (no warehousing) (channel 1); 2) CEP PA warehousing in customer's warehouse (consignment sales) (channel 2); 3) CEP PA warehousing in PA's warehouse (from inventory) (channel 3); and 4) EP direct sales on an FOB basis (channel 4). For EP and CEP sales, we examined the selling activities related to each of the selling functions between Polyplex and its U.S. customers. Polyplex reported its selling functions to distributors (*i.e.*, PA) and end–users in the United States as: technical services/support, customer interaction, sales calls, marketing research, order processing, price negotiation, credit/payment collection, delivery/freight, inventory maintenance (non–consignment sales), inventory maintenance (consignment sales), sales forecasting, sales promotion, and warranty. We examined Polyplex's selling functions for its U.S. sales and found that channels 1, 2, and 3 (*i.e.*, CEP sales to PA) are essentially the same channel with the same selling functions performed.[3]

For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and CEP profit under section 772(d) of the Act. *See Micron Technology*, 243 F.3d at 1314–1315. We reviewed the selling functions and services performed by Polyplex on CEP sales for the three channels of distribution relating to the CEP LOT, as described by Polyplex in its questionnaire response, after these deductions. Exhibit 8 of the AQR and Exhibit S1 of the SABCQR detail the selling functions performed for sales from Polyplex to PA and, then to distributors and end use customers. All three channels are included in the same selling function columns. Therefore, the Department finds that there are two channels of distribution in the United States, consisting of Polyplex's EP sales (*i.e.*, channel 4) and Polyplex's CEP sales (*i.e.*, channels 1, 2, and 3). We then compared the selling functions between Polyplex's CEP sales and Polyplex's EP direct U.S. sales.

The Department finds that the two channels of distribution in the U.S. vary significantly. For instance, the selling functions provided by Polyplex to unaffiliated customers in the U.S. (*i.e.*, EP direct sales to end–users) were usually at a medium level, while providing a high level of technical support. Polyplex provided a minimum level of sales calls, marketing research, inventory maintenance (non–consignment sales), while providing no sales promotion and warranty services. However, Polyplex usually provided no selling functions for sales to PA; only providing a minimum of technical services, order processing, delivery services, and moderate sales forecasting. *See* Exhibit A1 of Polyplex's March 12, 2008, supplemental questionnaire response. Therefore, we preliminary determine that Polyplex's U.S. sales are made at two LOTs (*i.e.*, CEP and EP).

We then compared the selling functions Polyplex provided in the comparison market LOT with the selling functions provided for the two U.S. LOTs. On this basis, we determined that the comparison market LOT is similar to Polyplex's U.S. LOT for EP sales. We made this determination based upon the minor differences that exist between Polyplex's comparison and U.S. EP sales, specifically the minimum level of sales calls and market research provided in the U.S. compared to medium to high level provided in the comparison market. *See* Exhibit A1 of Polyplex's March 12, 2008, supplemental questionnaire response. Moreover, we find that the degree to which Polyplex provides these identical selling functions for its customers in both markets to be the same or similar (*i.e.*, technical services, customer interaction, order processing, price negotiation, credit/payment collection, delivery/freight, inventory maintenance (non–consignment sales), sales forecasting, and warranty). Therefore, we preliminarily determine that Polyplex is not entitled to a LOT adjustment with respect to these sales.

According to section 773(a)(7)(B) of the Act, a CEP offset is appropriate when the LOT in the comparison market is at a more advanced stage than the LOT of the CEP sales and there are no data available to determine the existence of a pattern of price difference. Polyplex reported that it provided minimal selling functions and services for the one (CEP) LOT in the United States and that, therefore, the

[3] The Department notes that Polyplex's U.S. sales to Company A are being excluded from our analysis pursuant to the *Department's Analysis For Use of the Special Rule* section above. As such, Polyplex Thailand's EP sales, and certain CEP sales to Company A, will not be used in the margin analysis. The Department has conducted an LOT analysis for this preliminary determination because removing the sales in question is a preliminary decision and removing the sales in question does not affect the ultimate conclusion reached by the LOT analysis.

comparison market LOT is more advanced than the CEP LOT. Based on our analysis of the channels of distribution and selling functions performed by Polyplex for sales in the comparison market and CEP sales in the U.S. market, we preliminarily find that the comparison market LOT is at a more advanced stage of distribution when compared to CEP sales because Polyplex provides many more selling functions in the comparison market at a higher level of service as compared to selling functions performed for its CEP sales (*i.e.*, technical services/support, customer interaction, sales calls, marketing research, order processing, price negotiation, credit/payment collection, delivery/freight, inventory maintenance (non–consignment sales), inventory maintenance (consignment sales), and sales promotion). *See* Exhibit S1 of Polyplex's SABCQR. Thus, we find that Polyplex's comparison market sales are at a more advanced LOT than its CEP sales. There is one LOT in the comparison market, and there are no data available to determine the existence of a pattern of price difference, and we do not have any other information that provides an appropriate basis for determining a LOT adjustment. Therefore, consistent with section 773(a)(7)(B) of the Act, we applied a CEP offset to NV for CEP comparisons.

To calculate the CEP offset, we deducted from NV the comparison market indirect selling expenses from NV for comparison market sales that were compared to U.S. CEP sales. As such, we limited the comparison market indirect selling expense deduction by the amount of the indirect selling expenses deducted in calculating the CEP as required under section 772(d)(1)(D) of the Act.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415 based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

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

Preliminary Determination

The weighted–average dumping margin in the preliminary determination is as follows:

Producer/Exporter	Weighted–Average Margin (Percentage)
Polyplex (Thailand) Public Company Ltd.	0.00

Suspension of Liquidation

In accordance with section 733(b)(3) of the Act, the Department will disregard any weighted–average dumping margin that is zero or *de minimis, i.e.* less than 2 percent ad valorem. Based on our preliminary margin calculation, we will not direct the U.S. CBP to suspend liquidation of any entries of PET Film from Thailand as described in the ''Scope of Investigation'' section that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Department does not require any cash deposit or posting of a bond for this preliminary determination.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary determination. If the Department's final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of PET Film from Thailand are materially injuring, or threaten material injury to, the U.S. industry. We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 19 CFR 351.224(b).

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 final verification report in this proceeding. *See* 19 CFR 351.309(c)(1)(i). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days of the deadline date for the submission of case briefs. *See* 19 CFR 351.309(d)(1) and (2). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. 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, and 19 CFR 351.310, the Department will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, pursuant to 19 CFR 351.310(c) the hearing will tentatively be held two days after the rebuttal brief deadline date 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 Secretary of Commerce, Attention Assistant Secretary for Import Administration, U.S. Department of Commerce, APO/Dockets Unit Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (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 case and rebuttal briefs.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: April 25, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–9840 Filed 5–2–08; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

A–570–832

Pure Magnesium from the People's Republic of China: Extension of Time for the Preliminary Results of the Antidumping Duty Administrative Review

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

EFFECTIVE DATE: May 5, 2008.

FOR FURTHER INFORMATION CONTACT: Hua Lu, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–6478.

SUPPLEMENTARY INFORMATION: