POI. Because pre–shipment loans are not tied to exports of a particular product, or to particular markets, we calculated the subsidy rate for these loans by dividing the total benefit by the value of Triveni's total exports during the POI, in accordance with 19 CFR 351.525(b)(2). On this basis, we determine the countervailable subsidy from pre–shipment export financing to be 1.36 percent *ad valorem* for Triveni.

Because post–shipment loans are normally tied to specific shipments of a particular product to a particular market, we normally divide the benefit from post–shipment loans tied to exports of subject merchandise to the United States by the value of total exports of subject merchandise to the United States during the POI. *See* 19 CFR 351.525(b)(4). Since the information on the record demonstrates that Triveni's post–shipment loans were tied to a particular market, we have calculated the subsidy rate for these loans by dividing the benefit from the post–shipment loans by the value of Triveni's total exports to the United States during the POI. On this basis, we determine the countervailable subsidy provided to Triveni from post–shipment export financing to be 1.14 percent *ad valorem*.

*II. Programs Preliminarily Determined To Be Not Used*

We preliminarily determine that Triveni did not apply for or receive benefits during the POI under the programs listed below.

A. Export Oriented Unit Scheme

1. Duty–Free Import of Capital Goods and Raw Materials
2. Reimbursement of Central Sales Tax Paid on Goods Manufactured in India
3. Duty Drawback on Fuel Procured from Domestic Oil Companies
4. Exemption from Income Tax under Sections 10A and 10B of Income Tax Act

B. Advance License Program

C. Duty Free Import Authorisation Scheme

**Verification**

In accordance with section 782(i)(1) of the Act, we intend to verify the information submitted by the GOI and Triveni prior to making our final determination.

**Suspension of Liquidation**

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated an individual rate for Triveni, the only known producer/exporter of the subject merchandise during the POI. We preliminarily determine the total estimated net countervailable subsidy rate to be 11.23 percent *ad valorem* for Triveni.

Sections 703(d) and 705(c)(5)(A) of the Act state that, for companies not investigated, we will determine an all–others rate by weighting the individual company subsidy rate of each of the companies investigated by each company's exports of subject merchandise to the United States. In this investigation, Triveni is the sole respondent and meets the criteria for the all–others rate. Therefore, we have assigned Triveni's rate to all other producers and exporters.

In accordance with sections 703(d)(1)(B) and (2) of the Act, we will direct U.S. Customs and Border Protection to suspend liquidation of all entries of commodity matchbooks from India that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the **Federal Register**, and to require a cash deposit or bond for such entries of merchandise at the rates indicated above.

**International Trade Commission (ITC) Notification**

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non–privileged and non–proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Import Administration. In accordance with section 705(b)(2)(B) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

**Disclosure and Public Comment**

In accordance with 19 CFR 351.224(b), we will disclose to the parties the calculations for this preliminary determination within five days of its announcement. Unless otherwise notified by the Department, case briefs for this investigation must be submitted no later than 50 days after the date of publication of the preliminary determination. *See* 19 CFR 351.309(c) for a further discussion of case briefs. Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the deadline for submission of case briefs, pursuant to 19 CFR 351.309(d)(1). A list of authorities relied upon, 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.

Section 774 of the Act provides that the Department will hold a public hearing 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, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, pursuant to 19 CFR 351.310(d), at the Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice, pursuant to 19 CFR 351.310(c). 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. Oral presentations will be limited to issues raised in the briefs.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.221(b)(4).

Dated: March 30, 2009.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E9–7694 Filed 4–3–09; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–894]**

### Certain Tissue Paper Products From the People's Republic of China: Preliminary Results and Partial Rescission of the 2007–2008 Administrative Review and Intent Not To Revoke Order in Part

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

**SUMMARY:** The Department of Commerce (the Department) is currently conducting the 2007–2008 administrative review of the antidumping duty order on certain tissue paper products from the People's Republic of China (PRC). We preliminarily determine that sales have been made below normal value (NV) with respect to Max Fortune Industrial Limited and Max Fortune (FETDE) Paper Products Co., Ltd. (collectively, Max Fortune). Accordingly, we preliminarily find that Max Fortune does not qualify for revocation under 19 CFR 351.222(b)(2).

In addition, we are preliminarily rescinding the review with respect to six companies which reported they made no exports of subject merchandise during the period of review (POR), as confirmed by our review of import data from U.S. Customs and Border Protection (CBP).

If these preliminary results are adopted in our final results of this review, we will instruct CBP to assess antidumping duties on all appropriate entries of subject merchandise made during the period of review (POR).

Interested parties are invited to comment on these preliminary results. We will issue the final results no later than 120 days from the date of publication of this notice.

**DATES:** *Effective Date:* April 6, 2009.

**FOR FURTHER INFORMATION CONTACT:** Brian Smith or Brandon Custard, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1766 or (202) 482–1823, respectively.

## Case History

On March 30, 2005, the Department published in the **Federal Register** the antidumping duty order on certain tissue paper products from the PRC. *See Notice of Amended Final Determination of Sales at Less than Fair Value and Antidumping Duty Order: Certain Tissue Paper Products from the People's Republic of China*, 70 FR 16223 (March 30, 2005) (*Tissue Paper Order*).

On March 3, 2008, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on certain tissue paper products from the PRC. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 73 FR 11389 (March 3, 2008).

On March 31, 2008, the Department received a timely request for an administrative review of this antidumping duty order in accordance with 19 CFR 351.213 from Max Fortune. On March 31, 2008, the Department also received a timely request from the petitioner [1] for an administrative review of nine companies.[2]

On April 25, 2008, the Department published in the **Federal Register** a notice of initiation of the administrative review of the antidumping duty order on certain tissue paper products from the PRC for nine individually named firms covering the period March 1, 2007, through February 29, 2008. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part,* FR 22337 (April 25, 2008) (*Initiation Notice*).

On May 2, 2008, the Department placed on the record the CBP data for U.S. imports of subject merchandise from the PRC during the POR. In its May 2, 2009 letter to the interested parties in this review, the Department stated that it intended to select respondents for individual review based on the CBP import data and provided parties with an opportunity to comment on the CBP import data and respondent selection. On May 9 and 12, 2008, Max Fortune and the petitioner, respectively, submitted comments to the Department on the respondent selection process.

On June 9, 2008, we requested that the Import Administration's Office of Policy (the Office of Policy) issue a surrogate-country memorandum for the selection of the appropriate surrogate country in this review.[3]

Based on the comments received from the parties regarding respondent selection, on June 10, 2008, the Department issued letters to each of the nine companies for which a review was initiated requesting that each: (1) Provide POR quantity and value data and complete a separate-rate certification or application; or (2) submit a no-shipment statement if applicable.

On June 12, 2008, the Office of Policy provided us with a list of five countries at a level of economic development comparable to that of the PRC.[4]

On June 24, 2008, the Department received submissions from eight companies. One of those companies (*i.e.,* Max Fortune) provided its quantity and value data. Seven companies [5] certified that they had no shipments of subject merchandise during the POR and one of these seven companies, Quijiang, requested that the Department rescind the review with respect to it based on its POR no-shipment claim. Also on June 24, 2008, seven of these eight companies submitted their separate-rate certifications in response to the Department's request.[6] On June 27, 2008, the remaining company for which a review was requested, Guilin Qifeng, informed the Department that it would not be participating in this review.

On July 2, 2008, we issued Max Fortune the antidumping duty questionnaire. On July 9, 2008, we also issued Quijiang the antidumping duty questionnaire and informed it, with respect to its sales reporting, that the POR had been expanded back to September 5, 2006.[7] *See* July 9, 2008 cover letter to questionnaire issued to Quijiang.

On July 10, 2008, the Department invited interested parties participating in this review to submit comments on surrogate-country selection and to submit publicly available information as

[1] The petitioner is the Seaman Paper Company of Massachusetts, Inc.

[2] These companies are as follows: (1) Max Fortune; (2) Guilin Qifeng Paper Co., Ltd. (Guilin Qifeng); (3) Vietnam Quijiang Paper Co., Ltd. (Qujiang); (4) Foshan Sansico Co., Ltd. (Foshan Sansico); (5) Sansico Asia Pacific Limited (Sansico Asia); (6) PT Grafitecindo Ciptaprima (Grafitecindo); (7) PT Printec Perkasa (Printec I); (8) PT Printec Perkasa II (Printec II); and (9) PT Sansico Utama (Sansico Utama).

[3] *See* the Department's memorandum entitled, ''Request for Surrogate Country Selection,'' dated June 9, 2008.

[4] *See* the Department's memorandum entitled, ''Administrative Review of the Antidumping Duty Order on Brake Rotors from the People's Republic of China (PRC): Request for a List of Surrogate Countries,'' dated August 7, 2008 (Policy Memorandum).

[5] The seven companies claiming no shipments of subject merchandise during the POR are Quijiang, Foshan Sansico, Sansico Asia, Grafitecindo, Printec I, Printec II, and Sansico Utama.

[6] The seven companies submitting separate rate certifications are Max Fortune, Foshan Sansico, Sansico Asia, Grafitecindo, Printec I, Printec II, and Sansico Utama.

[7] The normal POR in this case is March 1, 2007 through February 29, 2008. However, we expanded the POR with respect to Quijiang back to September 5, 2006, in order to include Quijiang's entries of tissue paper products covered by the Department's preliminary determination in an anti-circumvention inquiry which was ongoing at that time. *See Certain Tissue Paper Products from the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order and Extension of Final Determination,* 73 FR 21580 (April 22, 2008). In that proceeding, the Department found that Quijiang had circumvented the order by exporting tissue paper products to the United States that were processed in Vietnam using PRC-origin jumbo rolls of tissue paper produced by its parent company (Guilin Qifeng). *See Certain Tissue Paper Products from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order,* 73 FR 57591 (October 3, 2008).

surrogate values (SVs) for purposes of calculating NV.[8]

On August 8, 2008, Quijiang informed the Department that it would not be responding to the Department's antidumping duty questionnaire, arguing that it was prematurely issued pending the Department's final determination in the anti-circumvention inquiry involving Quijiang.

During August 2008, Max Fortune submitted its responses to the antidumping duty questionnaire.

On August 14 and September 19, 2008, the petitioner submitted surrogate-country comments and publicly available surrogate value information (PAI), respectively, in this administrative review.

Upon the completion of the Department's final circumvention determination involving Quijiang, on September 23, 2008, the Department provided Quijiang one final opportunity to respond to the antidumping questionnaire issued on July 9, 2008. On October 3, 2008, Quijiang submitted a letter stating that it had not issued any certifications pursuant to the certification procedures outlined in the Department's affirmative preliminary and final determinations of circumvention involving Quijiang. As Quijiang's letter lacked the necessary certifications, the Department informed Quijiang on October 8, 2008, that it needed to resubmit its October 3, 2009, letter with the required certifications. On October 9, 2008, Quijiang submitted another letter stating that it had closed its factory as of April 20, 2008, and would not be participating in this review.

On October 24, 2009, the Department discontinued the certification program for Quijiang's U.S. entries of tissue paper products based on its non-participation in this administrative review.[9]

On November 20, 2008, the Department postponed the preliminary results of this review until March 31, 2009. *See Certain Tissue Paper Products From the People's Republic of China: Extension of Time Limit for Preliminary Results of 2007–2008 Administrative Review*, 73 FR 70323 (November 20, 2008).

The Department issued a supplemental questionnaire to Max Fortune on December 17, 2008, and received Max Fortune's supplemental questionnaire response on January 5, 2009. Max Fortune submitted additional information related to its January 5, 2009, response on January 19, 2009.

On January 29, 2009, the Department issued Max Fortune the verification outline. Pursuant to section 782(i) of the Tariff Act of 1930, as amended (the Act), the Department conducted verification of the questionnaire responses submitted by Max Fortune in February 2008. *See* Memorandum to The File from Case Analysts entitled ''Verification of the Questionnaire Responses of Max Fortune Industrial Limited and Max Fortune (FETDE) Paper Products Co., Ltd. in the Antidumping Duty Administrative Review of Certain Tissue Paper Products from the People's Republic of China,'' dated March 31, 2009 (Verification Report). The verification report is on file and available in the Central Records Unit (CRU), Room 1117 of the Department's main building.

On March 13, 2009, the petitioner submitted additional PAI for consideration in the preliminary results.

**Period of Review**

The POR is March 1, 2007, through February 29, 2008.

**Scope of the Order**

The tissue paper products covered by this order are cut-to-length sheets of tissue paper having a basis weight not exceeding 29 grams per square meter. Tissue paper products subject to this order may or may not be bleached, dye-colored, surface-colored, glazed, surface decorated or printed, sequined, crinkled, embossed, and/or die cut. The tissue paper subject to this order is in the form of cut-to-length sheets of tissue paper with a width equal to or greater than one-half (0.5) inch. Subject tissue paper may be flat or folded, and may be packaged by banding or wrapping with paper or film, by placing in plastic or film bags, and/or by placing in boxes for distribution and use by the ultimate consumer. Packages of tissue paper subject to this order may consist solely of tissue paper of one color and/or style, or may contain multiple colors and/or styles.

The merchandise subject to this order does not have specific classification numbers assigned to them under the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may be under one or more of several different subheadings, including: 4802.30, 4802.54, 4802.61, 4802.62, 4802.69, 4804.31.1000, 4804.31.2000, 4804.31.4020, 4804.31.4040, 4804.31.6000, 4804.39, 4805.91.1090, 4805.91.5000, 4805.91.7000, 4806.40, 4808.30, 4808.90, 4811.90, 4823.90, 4802.50.00, 4802.90.00, 4805.91.90, 9505.90.40. The tariff classifications are provided for convenience and customs purposes; however, the written description of the scope of this order is dispositive.[10]

*Excluded from the scope of this order are the following tissue paper products*: (1) Tissue paper products that are coated in wax, paraffin, or polymers, of a kind used in floral and food service applications; (2) tissue paper products that have been perforated, embossed, or die-cut to the shape of a toilet seat, *i.e.*, disposable sanitary covers for toilet seats; (3) toilet or facial tissue stock, towel or napkin stock, paper of a kind used for household or sanitary purposes, cellulose wadding, and webs of cellulose fibers (HTSUS 4803.00.20.00 and 4803.00.40.00).

**Separate Rates**

In proceedings involving non-market economy (NME) countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control, and thus, should be assigned a single antidumping duty deposit rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (de jure) and in fact (de facto), with respect to its export activities. *See Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588, 20589 (May 6, 1991). In this review, in support of its claim for a separate rate, Max Fortune reported that it is a wholly foreign-owned company registered and located in Hong Kong. *See* August 1, 2008, Section A Response (Section A Response) at page 2. Our verification findings corroborated Max Fortune's separate-rate claim. *See* Verification Report at pages 2–11. Consequently, no additional separate-rate analysis is necessary for Max Fortune. *See Notice of Final Determination of Sales at Less than Fair Value: Bicycles From the People's Republic of China*, 61 FR 19026 (April 30, 1996).

[8] *See* the Department's letter regarding, ''2007–2008 Antidumping Duty Administrative Review of Certain Tissue Paper Products from the People's Republic of China,'' requesting parties to provide comments on surrogate-country selection and provide surrogate factors of production values from the potential surrogate countries (*i.e.*, India, Indonesia, the Philippines, Colombia and Thailand).

[9] *See* October 24, 2008, memorandum entitled ''Discontinuation of Certification Program for Quijiang.''

[10] On January 30, 2007, at the direction of CBP, the Department added the following HTSUS classifications to the AD/CVD module for tissue paper: 4802.54.3100, 4802.54.6100, and 4823.90.6700. However, we note that the six-digit classifications for these numbers were already listed in the scope.

**Application of Adverse Facts Available**

For the reasons outlined below, we have preliminarily applied adverse facts available (AFA) to the PRC-wide entity which includes Guilin Qifeng and Quijiang. Section 776(a)(2) of the Act, provides that, if an interested party: (A) Withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Furthermore, section 776(b) of the Act states that if the Department ''finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority * * *, the administering authority * * *, in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.'' *See also* Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.Rep. No. 103–316 at 870 (1994) (SAA). It is the Department's practice to make an adverse inference ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *Id.* An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record. *See* section 776(b) of the Act.

In this administrative review, Guilin Qifeng and Quijiang failed to respond to the Department's questionnaires. Specifically, we issued a quantity and value questionnaire along with a separate-rates application and certification form to Guilin Qifeng and Quijiang for purposes of selecting the mandatory respondents in this review. *See* June 10, 2008, letters to Guilin Qifeng and Quijiang. However, Guilin Qifeng subsequently stated that it would not be participating in this review. *See* June 27, 2008, letter from Guilin Qifeng. Although Quijiang initially submitted a no-shipment response to the Department's quantity and value questionnaire on June 24, 2008, we subsequently issued an antidumping duty questionnaire to Quijiang for purposes of reporting its sales tissue paper products exported from Vietnam which were produced with PRC-origin jumbo rolls during the period September 5, 2006, through February 29, 2008. *See* July 9, 2008, letter to Quijiang. We gave Quijiang a second and final opportunity to respond to this questionnaire on September 23, 2008. *See* September 23, 2008, letter to Quijiang. In response, Quijiang stated that it had closed its factory and would no longer be participating in this review. *See* October 9, 2008, letter from Quijiang.

Because Guilin Qifeng and Quijiang did not demonstrate that they qualify for separate-rate status, we consider both entities to be part of the PRC-wide entity for purposes of this review. In the *Initiation Notice*, the Department stated that if one of the companies on which we initiated a review does not qualify for a separate rate, all other exporters of tissue paper products from the PRC which have not qualified for a separate rate are deemed to be part of the single PRC-wide entity of which the named exporter is a part. *See Initiation Notice*, 73 FR at 22338. Based upon the failure of Guilin Qifeng and Quijiang, as part of the PRC-wide entity, to submit responses to the Department's questionnaires, the Department finds that the PRC-wide entity withheld requested information, failed to provide the information in a timely manner and in the form requested, and significantly impeded this proceeding, pursuant to sections 776(a)(2)(A), (B) and (C) of the Act. Therefore, the Department must rely on the facts otherwise available in order to determine a margin for the PRC-wide entity, pursuant to section 776(a)(2)(A), (B) and (C) of the Act. *See Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 71 FR 69546 (December 1, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

Because the PRC-wide entity, including Guilin Qifeng and Quijiang, failed to cooperate to the best of its ability in providing the requested information in this review, as discussed above, we find it necessary, pursuant to sections 776(a)(2)(A), (B) and (C), as well as section 776(b), of the Act, to use total adverse facts available (AFA) as the basis for these preliminary results of review for the PRC-wide entity. *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary Results of the First Administrative Review and New Shipper Review*, 72 FR 10689, 10692 (March 9, 2007) (decision to apply total AFA to the NME-wide entity unchanged in *Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results of the First Antidumping Duty Administrative Review and First New Shipper Review*, 72 FR 52052 (September 12, 2007)).

**Selection of Adverse Facts Available Rate**

As discussed above, section 776(b) of the Act authorizes the Department to use, as AFA, information derived from the petition, the final determination in the less-than-fair-value (LTFV) investigation, any previous administrative review, or any information placed on the record. In selecting an AFA rate in reviews, the Department's practice has been to assign the highest margin on the record of any segment of the proceeding. *See, e.g., Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review*, 68 FR 19504 (April 21, 2003). The Court of International Trade (CIT) and the Federal Circuit have consistently upheld the Department's practice in this regard. *See Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185, 1190 (Fed. Cir. 1990) (*Rhone Poulenc*); *NSK Ltd. v. United States*, 346 F. Supp. 2d 1312, 1335 (CIT 2004) (upholding a 73.55 percent total AFA rate, the highest available dumping margin from a different respondent in a LTFV investigation); *see also Kompass Food Trading Int'l* v. *United States*, 24 CIT 678, 689 (July 31, 2000) (upholding a 51.16 percent total AFA rate, the highest available dumping margin from a different, fully cooperative respondent); and *Shanghai Taoen International Trading Co., Ltd.* v. *United States*, 360 F. Supp 2d 1339, 1348 (CIT 2005) (upholding a 223.01 percent total AFA rate, the highest available dumping margin from a different respondent in a previous administrative review).

The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse ''as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.'' *See Static Random Access Memory Semiconductors from Taiwan; Final Determination of Sales at Less than Fair Value*, 63 FR 8909, 8932 (February 23, 1998). The Department's practice also ensures ''that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* SAA at 870; *see also Final Determination of Sales at Less than Fair Value: Certain Frozen*

*and Canned Warmwater Shrimp from Brazil*, 69 FR 76910 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 22. In choosing the appropriate balance between providing respondents with an incentive to respond accurately and imposing a rate that is reasonably related to the respondent's prior commercial activity, selecting the highest prior margin ''reflects a common sense inference that the highest prior margin is the most probative evidence of current margins, because, if it were not so, the importer, knowing of the rule, would have produced current information showing the margin to be less.'' *Rhone Poulenc*, 899 F.2d at 1190.

Consistent with the statute, court precedent, and our normal practice, as AFA, we are assigning the PRC-wide entity, which includes Guilin Qifeng and Quijiang, the highest rate on the record of any segment of this proceeding, *i.e.*, 112.64 percent. As discussed further below, this rate has been corroborated.

**Corroboration of Secondary Information Used as AFA**

Section 776(c) of the Act provides that when the Department selects from among the facts otherwise available and relies on ''secondary information,'' the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. To corroborate the information, the Department seeks to determine that the information used has probative value. *See* SAA at 870. The Department has determined that to have probative value, information must be reliable and relevant. *See Certain Tissue Paper Products from the People's Republic of China: Final Results and Final Rescission, In Part, of Antidumping Duty Administrative Review*, 72 FR 58642 (October 16, 2007), and accompanying Issues and Decision Memorandum at Comment 6.

To be considered corroborated, information must be found to be both reliable and relevant. The AFA rate of 112.64 percent that we are applying in the current review represents the highest rate from the petition in the LTFV investigation segment of this proceeding. *See Tissue Paper Order*. The Department corroborated the information used to calculate the 112.64 percent rate in the LTFV investigation. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Tissue Paper Products from the People's Republic of China*, 70 FR 7475 (February 14, 2005). Furthermore, the AFA rate we are applying for the current review was applied in a review subsequent to the LTFV investigation, and no information has been presented in the current review that calls into question the reliability of this information. *See Certain Tissue Paper from the People's Republic of China: Preliminary Results and Preliminary Rescission, In Part, of Antidumping Duty Administrative Review*, 72 FR 17477, 17480–17481 (April 9, 2007) (unchanged in *Certain Tissue Paper Products from the People's Republic of China: Final Results and Final Rescission, In Part, of Antidumping Duty Administrative Review*, 72FR 58642, 58644–58645 (October 16, 2007)). Thus, the Department finds that the information is reliable.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin. *See Fresh Cut Flowers from Mexico: Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) (where the Department disregarded the highest margin in that case as adverse best information available (the predecessor to facts available) because the margin was based on another company's uncharacteristic business expense, resulting in an unusually high margin). Similarly, the Department does not apply a margin that has been discredited. *See D & L Supply Co.* v. *United States*, 113 F.3d 1220, 1221 (Fed. Cir. 1997) (finding that the Department cannot use a margin that has been judicially invalidated in its calculations). The AFA rate we are applying for the instant review was calculated based on export price information and production data from the petition, as well as the most appropriate surrogate value information available to the Department during the LTFV investigation. As there is no information on the record of this review that demonstrates this rate is not appropriate for use as AFA, we determine this rate has relevance.

Because the AFA rate, 112.64 percent, is both reliable and relevant, we determine that it has probative value. As a result, we determine that the 112.64 percent rate is corroborated to the extent practicable for the purposes of this administrative review, in accordance with section 776(c) of the Act, and may reasonably be applied to the exports of the subject merchandise by the PRC-wide entity as AFA.

**Preliminary Partial Rescission of 2007–2008 Administrative Review**

With respect to Foshan Sansico, Sansico Asia, Grafitecindo, Printec I, Printec II, and Sansico Utama, each of these companies informed the Department that it did not export the subject merchandise to the United States during the POR.

Based on the record of this review, including the CBP data provided to the parties on May 2, 2009, we conclude preliminarily that Foshan Sansico, Sansico Asia, Grafitecindo, Printec I, Printec II, and Sansico Utama did not export subject merchandise to the United States during the POR. Therefore, in accordance with 19 CFR 351.213(d)(3), we are preliminarily rescinding this administrative review for Foshan Sansico, Sansico Asia, Grafitecindo, Printec I, Printec II, and Sansico Utama.

**Non-Market Economy Country**

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. *See, e.g.*, *Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 58672 (October 7, 2005) (unchanged in *Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Final Results of Antidumping Duty Administrative Review*, 71 FR 7013 (February 10, 2006)). None of the parties in this administrative review has contested such treatment. Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

**Surrogate Country**

Section 773(c)(1) of the Act directs the Department to base NV on the NME producer's factors of production (FOPs), valued in a surrogate market-economy (ME) country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall use, to the extent possible, the prices or costs of the FOPs in one or more ME countries that are: (1) At a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the ''Normal Value'' section below. *See also* the

Department's memorandum entitled, ''Preliminary Results of the 2007–2008 Administrative Review of the Antidumping Duty Order on Certain Tissue Paper Products from the People's Republic of China: Factor Valuation for the Preliminary Results,'' dated March 31, 2009 (Surrogate Value Memorandum).

The Department determined that India, Indonesia, the Philippines, Colombia and Thailand are countries comparable to the PRC in terms of economic development. *See* Policy Memorandum. Customarily, we select an appropriate surrogate country from the Policy Memorandum based on the availability and reliability of data from the countries that are significant producers of comparable merchandise. In this case, we found that India is at a comparable level of economic development to the PRC; is a significant producer of the subject merchandise (*i.e.*, tissue paper); and has publicly-available and reliable data. *See* March 31, 2009, Memorandum to the File entitled ''2007–2008 Antidumping Duty Administrative Review on Certain Tissue Paper Products from the People's Republic of China: Selection of a Surrogate Country'' (Surrogate Country Memorandum).

Accordingly, we selected India as the primary surrogate country for purposes of valuing the FOPs in the calculation of NV because it meets the Department's criteria for surrogate-country selection. *See* Surrogate Country Memorandum. We obtained and relied upon publicly-available information wherever possible.

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results in antidumping administrative reviews, interested parties may submit publicly-available information to value FOPs within 20 days after the date of publication of these preliminary results.

**Fair Value Comparisons**

To determine whether sales of the subject merchandise by Max Fortune to the United States were made at prices below NV, we compared Max Fortune's export prices (EPs) to NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice below, pursuant to section 773 of the Act.

**Export Price**

Because Max Fortune sold subject merchandise to an unaffiliated purchaser in the United States prior to importation into the United States and use of a constructed-export-price methodology was not otherwise indicated, we used EP in accordance with section 772(a) of the Act.

We calculated EP based on the reported terms of delivery to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight and foreign brokerage and handling charges in the PRC pursuant to section 772(c)(2)(A) of the Act.[11] Because foreign inland freight and foreign brokerage and handling fees were provided by PRC service providers or paid for in renminbi, we based those charges on surrogate rates from India. *See* ''Factor Valuations'' section below for further discussion of surrogate rates.

In determining the most appropriate surrogate values (SVs) to use in a given case, the Department's practice is to use review period-wide price averages, prices specific to the input in question, prices that are net of taxes and import duties, prices that are contemporaneous with the POR, and publicly-available data. *See, e.g. Certain Cased Pencils from the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review,* 71 FR 38366 (July 6, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

The data we used for brokerage and handling expenses fulfill all of the foregoing criteria except that they are not specific to the subject merchandise. There is no information of that type on the record of this review. Therefore, the Department used three sources to calculate an SV for domestic brokerage expenses: (1) Data from Kejriwal Paper Ltd. (Kejriwal) for the period of investigation July 1, 2004, to June 30, 2005 (*see Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances in Part: Certain Lined Paper Products From India*, 71 FR 19706 (April 17, 2006) (unchanged in *Notice of Final Determination of Sales at less Than Fair Value and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India*, 71 FR 45012 (August 8, 2006)); (2) data from Essar Steel Limited (Essar) for the POR July 1, 2004, through June 30, 2005 (*see Certain Hot-Rolled Carbon Steel Flat Products from India: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 2018, 2021 (January 12, 2006) (unchanged in *Certain Hot-Rolled Carbon Steel Flat Products from India: Final Results of Antidumping Duty Administrative Review*, 71 FR 40694 (July 18, 2006)); and (3) data from Agro Dutch Industries Ltd. for the POR February 1, 2004, through January 31, 2005 (*see Certain Preserved Mushrooms From India: Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 10597 (March 4, 2005) (unchanged in *Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review*, 70 FR 37757 (June 30, 2005)). Because these values were not concurrent with the period of this administrative review, we adjusted them for inflation using the Wholesale Price Index (WPI) for India as published in the International Monetary Fund's *International Financial Statistics*, available at *http://ifs.apdi.net/imf*, and then calculated a simple average of the three companies' brokerage expense data.

The Department valued inland truck freight expenses using a per-unit average rate calculated from data on the following Web site: *http://www.infobanc.com/logistics/logtruck.htm*. The logistics section of this Web site contains inland freight truck rates between many large Indian cities. Because this rate is not contemporaneous with the POR, we deflated it using WPI data. *See* Surrogate Value Memorandum.

**Normal Value**

Section 773(c)(1) of the Act provides that, in the case of an NME, the Department shall determine NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home market prices, third country prices, or constructed value under section 773(a) of the Act. The Department will base NV on FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under our normal methodologies. Therefore, we calculated NV based on FOPs in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c).

*For purposes of calculating NV, we valued the PRC FOPs in accordance with section 773(c)(1) of the Act. The FOPs include*: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs, including

[11] *See* the Department's memorandum entitled, ''2007–2008 Administrative Review of the Antidumping Duty Order on Certain Tissue Paper Products from the People's Republic of China: Preliminary Results Margin Calculation for Max Fortune Industrial Limited and Max Fortune (FETDE) Paper Products Co., Ltd. (collectively referred to as Max Fortune),'' dated March 31, 2009 (*Max Fortune Calculation Memo*).

depreciation. We used the FOPs reported by Max Fortune for materials, energy, labor, and packing. *See* section 773(c)(3) of the Act.

In examining SVs, we selected, where possible, the publicly-available value, which was an average non-export value, representative of a range of prices within the POR or most contemporaneous with the POR, product-specific, and tax-exclusive. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates from the People's Republic of China*, 69 FR 75294, 75300 (December 16, 2004) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates from the People's Republic of China*, 70 FR 24502 (May 10, 2005)). For a detailed explanation of the methodology used to calculate SVs, *see* Surrogate Value Memorandum.

*Factor Valuations*

In accordance with section 773(c) of the Act, we calculated NV based on the FOPs reported by Max Fortune for the POR. We relied on the factor-specific data submitted by Max Fortune for the production inputs in its questionnaire and supplemental questionnaire responses, where applicable, for purposes of selecting SVs. To calculate NV, we multiplied the reported per-unit factor consumption rates by publicly-available Indian SVs for all but two inputs.

Max Fortune reported that it purchased two inputs (*i.e.*, pulpboard and cartons), which it consumed in the production of the subject merchandise under review from a ME supplier and paid for in a market-economy currency. Section 773(c) of the Act and 19 CFR 351.408(c)(1) requires the Department to accept input prices to value the FOPs when the input is purchased from a ME supplier and paid for in a ME currency. Furthermore, consistent with the Department's stated policy reflected in *Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback: and Request for Comments*, 71 FR 61716 (October 19, 2006) (*2006 Statement of Policy*), when a sufficient proportion of an input is purchased from a ME, the Department will use the reported ME price to value the input if it was paid for in a ME currency. For purposes of the preliminary results, we have determined that Max Fortune's reported ME purchases of the two inputs identified above accounted for a significant portion of its total purchases of these two inputs and, therefore, have used the reported purchase prices to value these two inputs in our NV calculation. *See* Max Fortune Calculation Memo for further discussion on the valuation of cartons.

Normally, the Department prefers to use FOP data that accurately represent the quantity of inputs consumed on a control number (CONNUM)-specific basis. In this review, Max Fortune has indicated that it started maintaining records for dye and ink consumption in the paper-making and printing stages of production on a product-specific and color-specific basis in November 2007 for purposes of reporting its FOP data in a manner consistent with the Department's instructions in the prior review segment. *See* January 5, 2009, supplemental response at pages 11–14. Accordingly, for the last four months of the POR (November 2007 through February 2008), Max Fortune reported its paper-making dye consumption amounts and printing ink consumption amounts on a product-code-specific and color-specific basis. However, for the portion of the POR prior to the Department's instruction (March 2007 through February 2008), Max Fortune did not report these consumption amounts on a product-specific and color-specific basis. In addition, Max Fortune did not provide product-specific and color-specific printing dye consumption amounts for any portion of the POR.

At verification, we examined Max Fortune's ink and dye consumption records and confirmed that it started maintaining consumption records for dyes used for paper-making and inks used for printing on both a color-specific and product-specific basis as of November 2007. However, Max Fortune did not maintain these records before that date. *See* Verification Report at pages 22–24. The Department finds such information necessary in order to accurately value the FOPs utilized in tissue paper production. Therefore, pursuant to section 776(a)(1) of the Act, because necessary information relevant to the Department's analysis is not on the record, the Department has determined it necessary to apply facts otherwise available to value Max Fortune's dye and ink consumption factors which were not reported on a color-specific and product-specific basis. Consistent with the Department's decisions in prior segments of this review, as facts available, the Department has preliminarily determined it appropriate to rely on the aggregate, non-color-specific paper-making dye consumption factors reported by Max Fortune prior to November 2007. The Department valued such dye consumption using an average of Indian import values for different dye types commonly used in tissue-paper production. For dyes used in printing, as facts available, for the entire POR, the Department has preliminarily determined it appropriate to accept Max Fortune's aggregate, non-color specific print dye consumption factors. The Department valued print dye consumption using an average Indian import value for non-black printing dyes. For inks used for printing, while Max Fortune reported product-specific and color-specific ink consumption factors as of November 2007, the Department has been unable to obtain color-specific ink values. Thus, we have valued all ink consumption using a non-color-specific average Indian import value.

In selecting the SVs, consistent with our past practice, we considered the quality, specificity, and contemporaneity of the data. *See, e.g., Folding Metal Tables and Chairs from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 71 FR 71509 (December 11, 2006), and accompanying Issues and Decision Memorandum at Comment 9. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to Indian import SVs a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory, where appropriate. This adjustment is in accordance with the decision of the U.S. Court of Appeals for the Federal Circuit (Federal Circuit). *See Sigma Corp.* v. *United States*, 117 F. 3d 1401, 1408 (Fed. Cir. 1997). When we used non-import surrogate values for factors sourced domestically by PRC suppliers (*e.g.*, ME-purchased inputs), we based freight for these inputs on the actual distance from the input supplier to the site at which the input was consumed. Where necessary, we adjusted the SVs for inflation/deflation using the WPI as published in the International Monetary Fund's *International Financial Statistics*, available at *http://ifs.apdi.net/imf.*

We valued the raw material and packing material inputs, and the by-product (*i.e.*, paper scrap) using weighted-average unit import values derived from the *Monthly Statistics of the Foreign Trade of India* (*MSFTI*), as published by the Directorate General of Commercial Intelligence and Statistics of the Ministry of Commerce and Industry, Government of India, and compiled by the World Trade Atlas (WTA), available at *http:www.gtis.com/*

*wta.htm*. The Indian WTA import data are reported in rupees and are contemporaneous with the POR.[12] Indian SVs denominated in Indian rupees were converted to U.S. dollars using the applicable daily exchange rate for India for the POR. *See http://www.ia.ita.doc.gov/exchange/index.html*. Where appropriate, we converted the units of measure to kilograms. *See* Surrogate Value Memorandum.

Furthermore, with regard to the WTA Indian import-based SVs, we disregarded prices from NME countries[13] and those we have reason to believe or suspect may be subsidized, because we have found in other proceedings that these exporting countries maintain broadly available, non-industry-specific export subsidies and, therefore, there is reason to believe or suspect that all exports to all markets from such countries may be subsidized.[14] We are also guided by the statute's legislative history that explains that it is not necessary to conduct a formal investigation to ensure that such prices are not subsidized. *See* H.R. Rep. No. 576 100th Cong., 2. Sess. 590–91 (1988). Rather, the Department was instructed by Congress to base its decision on information that is available to it at the time it is making its determination. Therefore, we excluded export prices from Indonesia, South Korea, Thailand, and India when calculating the Indian import-based SVs. *See* Surrogate Value Memorandum. Finally, we excluded imports that were labeled as originating from an ''unspecified'' country from the average Indian import values, because we could not be certain that they were not from either an NME or a country with general export subsidies.

As discussed above, the Department valued surrogate truck freight cost by using a deflated per-unit average rate calculated from data on the following web site: *http://www.infobanc.com/logistics/logtruck.htm. See Polyethylene Retail Carrier Bags from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 73 FR 52282, 52286 (September 9, 2008) (and unchanged in *Polyethylene Retail Carrier Bags from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 6857 (February 11, 2009); and Surrogate Value Memorandum at Attachment 8.

We valued water using data from the Maharashtra Industrial Development Corporation because it includes a wide range of industrial water tariffs. This source provides 378 industrial water rates within the Maharashtra province from July 2007; 189 for the ''inside industrial areas'' usage category; and 189 for the ''outside industrial areas'' usage category.[15]

The Department calculated a simple average price for domestic coal using data obtained from Coal India Limited. Because these data were not contemporaneous with the POR, we adjusted the average value for inflation using WPI. *See* Surrogate Value Memorandum at Attachment 6.

To value electricity, the Department used July 2006 electricity price rates from *Electricity Tariff & Duty and Average Rates of Electricity Supply in India*, published by the Central Electricity Authority of the Government of India. Because these data were not contemporaneous with the POR, we adjusted the average value for inflation using WPI. *See* Surrogate Value Memorandum at Attachment 5.

For direct labor, indirect labor and packing labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression-based wage rates reflective of the observed relationship between wages and national income in ME countries as reported on Import Administration's Web site. *See* ''Expected Wages of Selected NME Countries'' (revised January 2007) (available at *http://www.trade.gov/ia/*). For further details on the labor calculation, *see* Surrogate Value Memorandum at Attachment 8. Because the regression-based wage rates do not separate the labor rates into different skill levels or types of labor, we applied the same wage rate to all skill levels and types of labor reported by Max Fortune.

Max Fortune reported that during the manufacturing process, its subject merchandise was transported from its paper-making facility to its tissue paper-processing facility. Using Max Fortune's reported distance and the reported weight of its tissue paper products, we valued the other PRC distance (*i.e.*, domestic inland freight cost of transporting paper from Max Fortune's Putian facility to Max Fortune's Mawei processing facility) with the surrogate truck rate discussed above. This additional freight value was added to the cost of manufacture (COM). *See* Max Fortune Calculation Memorandum.

For factory overhead, selling, general, and administrative expenses (SG&A), and profit values, consistent with 19 CFR 351.408(c)(4), we used the public information from the 2007–2008 annual report of Pudumjee Pulp & Paper Mills Ltd. (Pudumjee).[16] From this information, we were able to determine factory overhead as a percentage of the total raw materials, labor, and energy (ML&E) costs; SG&A as a percentage of ML&E plus overhead (*i.e.*, COM); and the profit rate as a percentage of the COM plus SG&A. Where appropriate, we did not include in the surrogate overhead and SG&A calculations the excise duty amount listed in the financial report. For a full discussion of the calculation of these ratios, *see* Surrogate Value Memorandum and its accompanying calculation worksheets at Attachment 7.

**Verification**

As provided in section 782(i) of the Act, we verified the information submitted by Max Fortune for use in our preliminary results. We used standard verification procedures including an examination of relevant accounting and production records, and original source documents provided by Max Fortune. *See* Verification Report.

**Intent Not To Revoke Order In Part**

On March 31, 2008, Max Fortune requested, that pursuant to 19 CFR 351.222(b)(2), the Department revoke it from the antidumping duty order on certain tissue paper products from the PRC at the conclusion of this administrative review. Max Fortune submitted along with its revocation request a certification stating that: (1) The company sold subject merchandise at not less than NV during the POR, and that in the future it would not sell such merchandise at less than NV (*see* 19 CFR 351.222(e)(1)(i)); (2) the company has sold the subject merchandise to the

[12] *See* Surrogate Value Memorandum at Attachment 1.

[13] The NME countries are Armenia, Azerbaijan, Belarus, Georgia, Kyrgyz Republic, Moldova, PRC, Tajikistan, Turkmenistan, Uzbekistan, and Vietnam.

[14] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China; Final Results of the 1998–1999 Administrative Review, Partial Rescission of Review, and Determination Not to Revoke Order in Part*, 66 FR 1953 (January 10, 2001), and accompanying *Issues and Decision Memorandum* at Comment 1; *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China; Final Results of 1999–2000 Administrative Review, Partial Rescission of Review, and Determination Not To Revoke Order in Part*, 66 FR 57420 (November 15, 2001), and accompanying *Issues and Decision Memorandum* at Comment 1; and *China National Machinery Imp. & Exp. Corp.* v. *United States*, 293 F. Supp. 2d 1334, 1339 (CIT 2003), as affirmed by the Federal Circuit, 104 Fed. Appx. 183 (Fed. Cir. 2004).

[15] Web site available at *http://www.midcindia.org*.

[16] *See Certain Tissue Paper Products from the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 18497, 18502 (April 4, 2008) (unchanged in *Certain Tissue Paper Products from the People's Republic of China: Final Results and Final Rescission, in Part, of Antidumping Duty Administrative Review*, 73 FR 58113 (October 6, 2008) (*Tissue Paper AR2*)).

United States in commercial quantities during each of the past three years (*see* 19 CFR 351.222(e)(1)(ii)); and (3) the company agrees to immediate reinstatement of the antidumping duty order, if the Department concludes that the company, subsequent to revocation, sold the subject merchandise at less than NV (*see* CFR 351.222(e)(1)(iii)).

In determining whether or not to revoke an antidumping duty order with respect to a particular producer/exporter under 19 CFR 351.222(b)(2), the Department considers whether: (1) The producer/exporter has sold the subject merchandise at not less than NV for a period of at least three consecutive years; (2) the producer/exporter has agreed to immediate reinstatement of the order if the Department finds that it has resumed making sales at less than NV; and (3) the continued application of the order is not otherwise necessary to offset dumping. In this case, our preliminary margin calculation shows that Max Fortune sold the subject merchandise at less than NV during the current review period. *See* ''Preliminary Results of the Review'' section below. Therefore, we preliminarily find that Max Fortune does not qualify for revocation from the order, pursuant to 19 CFR 351.222(b)(2).

**Currency Conversion**

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank. *See http://www.ia.ita.doc.gov/exchange/index.html*.

**Preliminary Results of Review**

As a result of our review, we preliminarily determine that the following margins exist for the period March 1, 2007, through February 29, 2008:

CERTAIN TISSUE PAPER PRODUCTS FROM THE PRC

| Individually reviewed exporter 2007–2008 administrative review | Weighted-average percent margin (percent) |
|---|---|
| Max Fortune | 4.13 |
| PRC-Wide Rate | Margin (percent) |
| PRC-Wide Rate (including Guilin Qifeng Paper Co., Ltd. and Vietnam Quijiang Paper Co., Ltd.) | 112.64 |

**Disclosure**

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the date of publication of this notice. *See* 19 CFR 351.224(b).

Interested parties are invited to comment on the preliminary results and may submit case briefs and/or written comments within 30 days of the date of publication of this notice. *See* 19 CFR 351.309(c)(ii). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days later, pursuant to 19 CFR 351.309(d). Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue, and (2) a brief summary of the argument. Parties are requested to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Additionally, parties are requested to provide their case brief and rebuttal briefs in electronic format (*e.g.*, Microsoft Word, pdf, etc.). Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of 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 issues to be discussed. *See* 19 CFR 351.310(c). Issues raised in the hearing will be limited to those raised in case and rebuttal briefs. The Department will issue the final results of this review, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice.

**Assessment Rates**

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. In accordance with 19 CFR 351.212(b)(1), for Max Fortune, we calculated importer (or customer)-specific assessment rates for the merchandise subject to this review. Because we do not have entered values on the record for Max Fortune's sales, we calculated a per-unit assessment rate by aggregating the antidumping duties due for all U.S. sales to each importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer). *See* 19 CFR 351.212(b)(1). To determine whether the duty assessment rates are *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer (or customer)-specific *ad valorem* ratios based on the estimated entered value. Where an importer (or customer)-specific *ad valorem* rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties. *See* 19 CFR 351.106(c)(2).

With respect to the PRC-wide entity (including Guilin Qifeng and Quijiang), we will instruct CBP to liquidate appropriate entries at the PRC-wide rate of 112.64 percent.[17]

**Cash Deposit Requirements**

The following cash deposit requirements will be effective upon publication of the notice of final results of the administrative review for all shipments of certain tissue paper products from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) A cash deposit rate of 4.13 percent will be required for certain tissue paper products from the PRC exported by Max Fortune; (2) for previously reviewed or investigated companies not listed above that have separate rates, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) for all other PRC exporters of subject merchandise, which have not been found to be entitled to a separate rate, the cash-deposit rate will be PRC-wide rate of 112.64 percent; and (4) for all non-PRC exporters of subject merchandise, the cash-deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

**Notification to Importers**

This notice serves as a preliminary 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 the subsequent assessment of double antidumping duties.

[17] All entries of certain tissue paper products from Quijiang will be presumed to be of PRC origin regardless of whether they are declared to be of Vietnamese or Chinese origin. *See* October 24, 2008, memorandum entitled ''Discontinuation of Certification Program for Quijiang.''

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(4).

Dated: March 31, 2009.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E9–7688 Filed 4–3–09; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Proposed Information Collection; Comment Request; Basic Requirements for Special Exemption Permits and Authorizations To Take, Import, and Export Marine Mammals, Threatened and Endangered Species, and for Maintaining a Captive Marine Mammal Inventory Under the Marine Mammal Protection, the Fur Seal, and the Endangered Species Acts

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before June 5, 2009.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Amy Sloan, (301) 713–2289 or *Amy.Sloan@noaa.gov*.

**SUPPLEMENTARY INFORMATION:**

### I. Abstract

The Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*; MMPA), Fur Seal Act (16 U.S.C. 1151 *et seq.*; FSA), and Endangered Species Act (16 U.S.C. 1531 *et seq.*; ESA) prohibit certain actions affecting marine mammals and endangered and threatened species, with exceptions. Permits can be obtained for scientific research and enhancing the survival or recovery of a species or stock of marine mammals or threatened or endangered species; commercial and educational photography of marine mammals; and import and capture of marine mammals for public display. Letters of Confirmation can be obtained under the General Authorization (GA) for scientific research that involves minimal disturbance to marine mammals. The applicants desiring a permit or authorization must provide certain information for the National Marine Fisheries Service (NMFS) to determine whether a proposed activity is consistent with the purposes, policies, and requirements of the applicable laws, and that the activity is in the best interest of the protected species and the public. Permit holders and authorized researchers must report on activities conducted to ensure compliance with permit conditions and protection of the animals. Holders of captive marine mammals must report changes to their animal inventory.

This information collection applies to protected species for which NMFS is responsible, including the marine mammal species of cetaceans (whales, dolphins and porpoises) and pinnipeds (seals and sea lions) and threatened and endangered species including sea turtles (in water), white abalone, black abalone, smalltooth sawfish, shortnose sturgeon, and elkhorn and staghorn corals. The regulations implementing permit, authorization, and inventory requirements under the MMPA and FSA are at 50 CFR part 216; the regulations for permit requirements under the ESA are at 50 CFR part 222.

Respondents will be researchers, photographers, and other members of the public seeking exceptions to prohibited activities on marine mammals and endangered and threatened species through permits or authorizations for purposes described above; and holders of marine mammals in captivity.

### II. Method of Collection

Permit and authorization application materials and reports are available in paper and electronic versions, and are written to respond to a required format. Inventory materials and reports are paper forms. Methods of submission include mail, facsimile transmission, and electronic submission via e-mail or through an on-line application system known as Authorizations and Permits for Protected Species (APPS).

### III. Data

*OMB Control Number:* 0648–0084.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Individuals or households; not-for-profit institutions; business or other for-profit organizations; Federal Government; and State, Local, or Tribal Government.

*Estimated Number of Respondents:* 514.

*Estimated Time per Response:* 50 hours for an application for a scientific research or enhancement permit; 30 hours for an application for a public display permit; 10 hours for an application for a photography permit or GA Letter of Confirmation; 35 hours for a major amendment or modification to a permit; 3 hours for a minor amendment or modification to a permit or for a change to a GA Letter of Confirmation; 12 hours for a scientific research or enhancement permit report; 8 hours for a GA Letter of Confirmation report; 2 hours for a public display or photography permit report; request to retain or transfer a rehabilitated marine mammal, or a marine mammal inventory (1 hour for a transport notification; 30 minutes each for a data sheet and a person/holder/facility sheet); and 2 hours for recordkeeping.

*Estimated Total Annual Burden Hours:* 7,716.

*Estimated Total Annual Cost to Public:* $2,000.

### IV. Request for Comments

*Comments are invited on:* (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 1, 2009.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

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