

DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-848]

Certain Stilbenic Optical Brightening Agents From Taiwan: Final Determination of Sales at Less Than Fair Value

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

SUMMARY: The Department of Commerce (the Department) has determined that imports of certain stilbenic optical brightening agents (stilbenic OBAs) from Taiwan are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are listed in the "Continuation of Suspension of Liquidation" section of this notice.

DATES: *Effective Date:* March 23, 2012.

FOR FURTHER INFORMATION CONTACT: Sandra Stewart or Minoo Hatten, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482-0768 or (202) 482-1690, respectively.

SUPPLEMENTARY INFORMATION:

Case History

On November 3, 2011, the Department published in the **Federal Register** its preliminary determination in the antidumping duty investigation of stilbenic OBAs from Taiwan. See *Certain Stilbenic Optical Brightening Agents From Taiwan: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 76 FR 68154 (November 3, 2011) (*Preliminary Determination*).

As provided in section 782(i) of the Act, we conducted sales and cost verifications of the questionnaire responses submitted by the participating respondent, Teh Fong Min International, Co., Ltd. (TFM) and its U.S. affiliate, TFM North America, Inc. We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by the company.¹

¹ See Memorandum to the File entitled "Verification of the Sales Response of TFM North America, Inc. (TFMNA) in the Antidumping Investigation on Certain Stilbenic Optical Brightening Agents from Taiwan," dated December 20, 2011, Memorandum to the File entitled "Verification of the Sales Response of Teh Fong Min International Co., Ltd. in the Antidumping

We received case briefs submitted by Clariant Corporation (hereinafter, the petitioner) and TFM on January 19, 2012. TFM and the petitioner submitted rebuttal comments on January 26, 2012, and January 27, 2012, respectively. At the request of both parties, we held a hearing on January 31, 2012, in the main Department of Commerce building.

Subsequent to the *Preliminary Determination*, the Department revised the program to ensure that it accurately reflected the methodological choices made in that determination. These revisions to the programming, had they been included in the preliminary determination, would not have altered the weighted average dumping margins calculated there. See "Less-Than-Fair-Value Investigation of Certain Stilbenic Optical Brightening Agents from Taiwan: Final Analysis Memorandum for Teh Fong Min International Co., Ltd. (1/1/2010—12/31/2010)," dated concurrently with this notice (Final Analysis Memo) (with the revised preliminary AD margin program, output and weighted-average dumping margins).

Period of Investigation

The period of investigation (POI) is January 1, 2010, through December 31, 2010. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, March 2011. See 19 CFR 351.204(b)(1).

Scope of Investigation

The certain stilbenic OBAs covered by this investigation are all forms (whether free acid or salt) of compounds known as triazinylaminostilbenes (*i.e.*, all derivatives of 4,4'-bis [1,3,5- triazin-2-yl]² amino-2,2'-stilbenedisulfonic acid), except for compounds listed in the following paragraph. The stilbenic OBAs covered by these investigations include final stilbenic OBA products, as well as intermediate products that are themselves triazinylaminostilbenes produced during the synthesis of final stilbenic OBA products.

Excluded from this investigation are all forms of 4,4'-bis[4-anilino-6-morpholino-1,3,5-triazin-2-yl]³ amino-2,2'-stilbenedisulfonic acid, C40H40N12O8S2 ("Fluorescent

Investigation of Certain Stilbenic Optical Brightening Agents from Taiwan," dated December 30, 2011, and Memorandum to the File entitled "Verification of the Cost Response of Teh Fong Min International Corporation in the Antidumping Investigation of Certain Stilbenic Optical Brightening Agents from Taiwan," dated January 6, 2012.

² The brackets above denote the chemical formula of the subject merchandise. This is not business-proprietary information.

³ *Id.*

Brightener 71"). This investigation covers the above-described compounds in any state (including but not limited to powder, slurry, or solution), of any concentrations of active certain stilbenic OBA ingredient, as well as any compositions regardless of additives (*i.e.*, mixtures or blends, whether of certain stilbenic OBAs with each other, or of certain stilbenic OBAs with additives that are not certain stilbenic OBAs), and in any type of packaging.

These stilbenic OBAs are classifiable under subheading 3204.20.8000 of the Harmonized Tariff Schedule of the United States (HTSUS), but they may also enter under subheadings 2933.69.6050, 2921.59.4000 and 2921.59.8090. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping investigation are addressed in the Issues and Decision Memorandum (I&D Memo) from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, which is dated concurrently with and hereby adopted by this notice. A list of the issues raised is attached to this notice as Appendix I. The I&D Memo is a public document and is on file electronically *via* Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). Access to IA ACCESS is available in the Central Records Unit (CRU), room 7046 of the main Department of Commerce building. In addition, a complete version of the I&D Memo can be accessed directly on the Internet at <http://www.trade.gov/ia/>. The signed and electronic versions of the I&D memo are identical in content.

Targeted Dumping

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

In the *Preliminary Determination*, based on the methodology we adopted

in *Nails*,⁴ as modified in *Bags*⁵ and *Wood Flooring*⁶ to correct certain ministerial errors, we found that the overall proportion of TFM's U.S. sales during the POI that satisfy the criteria of section 777A(d)(1)(B)(i) of the Act was insufficient to establish a pattern of export prices for comparable merchandise that differ significantly among certain customers or regions. Accordingly, the Department determined that the criteria established in 777A(d)(1)(B)(i) of the Act had not been met and applied the average-to-average methodology to all sales.⁷ No party has commented on this determination.

As in the *Preliminary Determination*, for TFM we continue to not find a pattern of export prices for comparable merchandise that differs significantly among customers, regions, or by time period. See Final Analysis Memo.

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verifications, we have made certain changes to TFM's margin calculation. For a discussion of these changes, see memorandum to Neal M. Halper from Gina K. Lee entitled, "Constructed Value Calculation Adjustments for the Final Determination—Teh Fong Min International Co., Ltd. ("TFM")" (Final Cost Memo) and Final Analysis Memo, dated concurrently with this notice.

Date of Sale

Section 19 CFR 351.401(i) of the Department's regulations states that the Department normally will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that the Department may use a date other than the date of the invoice if the

⁴ See *Certain Steel Nails from the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value*, 73 FR 33985 (June 16, 2008) (*Nails*).

⁵ See *Polyethylene Retail Carrier Bags From Taiwan: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 74 FR 55183 (October 27, 2009) (unchanged in *Polyethylene Retail Carrier Bags from Taiwan: Final Determination of Sales at Less Than Fair Value*, 75 FR 14569 (March 26, 2010)) (*Bags*).

⁶ See *Multilayered Wood Flooring from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 64318 (October 18, 2011) (*Wood Flooring*) and accompanying I&D Memo at Comment 4.

⁷ See also Memorandum to Christian Marsh from Susan H. Kubbach entitled, "Less-Than-Fair Value Investigation on Certain Stilbenic Optical Brightening Agents from Taiwan: Targeted Dumping—Teh Fong Min International Co., Ltd.," dated October 27, 2011.

Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established.

TFM reported its sales using shipment date as the date of sale, because shipment occurred prior to invoicing. The petitioner commented that contract date or contract amendment date is the appropriate date of sale for TFM's sales made pursuant to long-term contracts. Based on information on the record concerning these long-term contracts and consistent with the *Preliminary Determination* and *Yieh Phui*,⁸ we find that the date of shipment is the appropriate date of sale. See I&D Memo published concurrently with this notice at Comment 1.

Constructed Value

As was explained in the *Preliminary Determination* (76 FR at 68134–68135), in accordance with section 773(a)(4) of the Act, we used constructed value as the basis for normal value because TFM did not have a viable comparison market. We calculated constructed value in accordance with section 773(e) of the Act. Because TFM does not have a viable comparison market, in the *Preliminary Determination* we determined selling expenses and profit under section 773(e)(2)(B)(iii) of the Act. In the *Preliminary Determination* we used the profit rate derived from the publicly available financial statements for the fiscal year most contemporaneous with the POI for a company in Taiwan, Everlight Chemical Industrial Corporation (Everlight). We received new factual information concerning the calculation of constructed value profit from parties since the *Preliminary Determination*. After considering the new factual information and comments we received concerning this issue, we find that, for this final determination, it is appropriate to use Everlight's colorants-sector profit to derive the constructed value profit. We have also excluded movement expenses and direct-selling expenses in our calculation of constructed value indirect selling expenses. See the discussion in the accompanying I&D Memo at Comments 2 through 6. See also Final Cost Memo and Final Analysis Memo.

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of

⁸ See *Yieh Phui Enterprise Co. v. United States* (Slip Op. 11–107) (August 24, 2011) (*Yieh Phui*).

stilbenic OBAs from Taiwan which were entered, or withdrawn from warehouse, for consumption on or after November 3, 2011, the date of publication of the *Preliminary Determination*. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average margin, as indicated below, as follows: (1) The rate for TFM will be the rate we have determined in this final determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 6.20 percent, as discussed in the "All-Others Rate" section, below. These suspension-of-liquidation instructions will remain in effect until further notice.

Manufacturer/exporter	Weighted-average margin (percent)
Teh Fong Min International Co., Ltd	6.20

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding any zero or *de minimis* margins and any margins determined entirely under section 776 of the Act. TFM is the only respondent in this investigation for which the Department calculated a company-specific rate. Therefore, for purposes of determining the all-others rate and pursuant to section 735(c)(5)(A) of the Act, we are using the weighted-average dumping margin calculated for TFM, 6.20 percent.⁹

Disclosure

We intend to disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

⁹ See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Italy*, 64 FR 30750, 30755 (June 8, 1999), and *Coated Free Sheet Paper from Indonesia: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 72 FR 30753, 30757 (June 4, 2007) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from Indonesia*, 72 FR 60636 (October 25, 2007)).

**International Trade Commission
Notification**

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our final determination. As our final determination is affirmative and in accordance with section 735(b)(2) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

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

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: March 19, 2012.

Paul Piquado,

*Assistant Secretary for Import
Administration.*

Appendix I**Issues in I&D Memo**

1. Date of Sale for Long-Term Contracts
2. Constructed Value Profit
3. Constructed Value Selling Expenses
4. Constructed Export Price Profit
5. General and Administrative Expenses
6. Cost Reconciliation

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-972]

Certain Stilbenic Optical Brightening Agents From the People's Republic of China: Final Determination of Sales at Less Than Fair Value

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

DATES: *Effective Date:* March 26, 2012.

SUMMARY: On November 3, 2011, the Department of Commerce (the "Department") published its preliminary determination of sales at less than fair value ("LTFV") in the antidumping investigation of certain stilbenic optical brightening agents ("stilbenic OBAs") from the People's Republic of China ("PRC").¹ The Department invited interested parties to comment on the *Preliminary Determination*. Based on the Department's analysis of the comments received, the Department has made changes from the *Preliminary Determination*, and continues to find that stilbenic OBAs from the PRC are being, or are likely to be, sold in the United States at LTFV, as provided in

¹ See *Certain Stilbenic Optical Brightening Agents from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 76 FR 68148 (November 3, 2011) ("*Preliminary Determination*").

section 735 of the Tariff Act of 1930, as amended (the "Act"). The final dumping margins for this investigation are listed in the "Final Determination" section below.

FOR FURTHER INFORMATION CONTACT: Shawn Higgins or Maisha Cryor, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-0679, or (202) 482-5831, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published its *Preliminary Determination* of sales at LTFV and postponement of the final determination on November 3, 2011. Between November 7, 2011, and November 18, 2011, the Department conducted verification of mandatory respondents Zhejiang Transfar Whyyon Chemical Co., Ltd. ("Transfar") and Zhejiang Hongda Chemicals Co., Ltd. ("Hongda").² Clariant Corporation ("Petitioner"), Transfar, and Hongda submitted case briefs on January 6, 2012.³ On January 11, 2012, Petitioner and Transfar filed rebuttal briefs. The Department conducted a public hearing on February 1, 2012.

Period of Investigation

The period of investigation ("POI") is July 1, 2010, through December 31, 2010. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition, which was March 2011.⁴

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the Issues and Decision Memorandum.⁵ A list of

² See the "Verification" section below.

³ The Department rejected Transfar's original case brief because it contained untimely information. See Letter from Robert Bolling, Program Manager, AD/CVD Operations, Office 4, to Transfar, regarding Transfar's submission of untimely information (January 10, 2012). Transfar submitted a revised version of its case brief on January 13, 2012. See Letter from Transfar to the Secretary of Commerce, "Certain Stilbenic Optical Brightening Agents from China" (January 13, 2012) ("Transfar's Case Brief"); Letter from Transfar to the Secretary of Commerce, "Certain Stilbenic Optical Brightening Agents from China" (January 11, 2012) ("Transfar's Rebuttal Brief").

⁴ See 19 CFR 351.204(b)(1).

⁵ See Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, "Issues and Decision Memorandum for the Final Determination in the Antidumping Duty Investigation of Certain Stilbenic Optical Brightening Agents from the People's Republic of

these issues is attached to this notice as Appendix I. The Issues and Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"). Access to IA ACCESS is available in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at <http://www.trade.gov/ia/>. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

- The Department changed the surrogate value ("SV") for ocean freight to reflect shipping rates that actually occurred during the POI. In addition, the Department included certain additional charges (*i.e.*, fuel surcharges, destination delivery charges, and bill of lading charges) in the ocean freight calculation because these charges were not separately covered by the brokerage and handling SV.⁶
- The Department changed the SV for ice blocks from Global Trade Atlas import data to a value reported in the publication *Business Report Thailand*.⁷
- The Department made changes based on minor corrections presented at verification.⁸

China" (March 19, 2012) ("Issues and Decision Memorandum").

⁶ See Issues and Decision Memorandum at Comment 4; Memorandum from Maisha Cryor, International Trade Compliance Analyst, AD/CVD Operations, Office 4, to the File, "Antidumping Duty Investigation of Certain Stilbenic Optical Brightening Agents from the People's Republic of China: Final Surrogate Value Memorandum" (March 19, 2012) ("Final SV Memo") at Attachment 2.

⁷ See Issues and Decision Memorandum at Comment 3; Final SV Memo at Attachment 1.

⁸ See Memorandum from Shawn Higgins, International Trade Compliance Analyst, AD/CVD Operations, Office 4, and Abdelali Elouaradia, Office Director, AD/CVD Operations, Office 4, to the File, "Antidumping Duty Investigation of Certain Stilbenic Optical Brightening Agents from the People's Republic of China: Verification of the Antidumping Duty Questionnaire Responses of Zhejiang Hongda Chemicals Co., Ltd." (December 15, 2011) ("Hongda's Verification Report"); Memorandum from Maisha Cryor, International Trade Compliance Analyst, AD/CVD Operations, Office 4, to the File, "Antidumping Duty Investigation of Certain Stilbenic Optical Brightening Agents from the People's Republic of China: Final Determination Analysis Memorandum for Zhejiang Hongda Chemicals Co., Ltd." (March 19, 2012); Memorandum from Shawn Higgins, International Trade Compliance Analyst, AD/CVD Operations, Office 4, and Maisha Cryor, International Trade Compliance Analyst, AD/CVD

Scope of the Investigation

The stilbenic OBAs covered by this investigation are all forms (whether free acid or salt) of compounds known as triazinylaminostilbenes (*i.e.*, all derivatives of 4,4'-bis [1,3,5- triazin-2-yl]⁹ amino-2,2'-stilbenedisulfonic acid), except for compounds listed in the following paragraph. The stilbenic OBAs covered by this investigation include final stilbenic OBA products, as well as intermediate products that are themselves triazinylaminostilbenes produced during the synthesis of stilbenic OBA products.

Excluded from this investigation are all forms of 4,4'-bis[4-anilino-6-morpholino-1,3,5-triazin-2-yl]¹⁰ amino-2,2'-stilbenedisulfonic acid, C₄₀H₄₀N₁₂O₈S₂ ("Fluorescent Brightener 71"). This investigation covers the above-described compounds in any state (including but not limited to powder, slurry, or solution), of any concentrations of active stilbenic OBA ingredient, as well as any compositions regardless of additives (*i.e.*, mixtures or blends, whether of stilbenic OBAs with each other, or of stilbenic OBAs with additives that are not stilbenic OBAs), and in any type of packaging.

These stilbenic OBAs are classifiable under subheading 3204.20.8000 of the Harmonized Tariff Schedule of the United States ("HTSUS"), but they may also enter under subheadings 2933.69.6050, 2921.59.4000 and 2921.59.8090. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Verification

As provided in section 782(i) of the Act, the Department verified the information submitted by Transfar and Hongda for use in its final determination. The Department used standard verification procedures, including examination of relevant accounting and production records and

Operations, Office 4, to the File, "Antidumping Duty Investigation of Certain Stilbenic Optical Brightening Agents from the People's Republic of China: Verification of the Antidumping Duty Questionnaire Responses of Zhejiang Transfar Whyyon Chemical Co., Ltd." (December 15, 2011) ("Transfar's Verification Report"); Memorandum from Shawn Higgins, International Trade Compliance Analyst, AD/CVD Operations, Office 4, to the File, "Antidumping Duty Investigation of Certain Stilbenic Optical Brightening Agents from the People's Republic of China: Final Determination Analysis Memorandum for Zhejiang Transfar Whyyon Chemical Co., Ltd." (March 19, 2012).

⁹ The brackets in this sentence are part of the chemical formula.

¹⁰ *Id.*

original source documents provided by the respondents.¹¹

Non-Market Economy Country

The Department considers the PRC to be a non-market economy ("NME") country. In accordance with 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. The Department has not revoked the PRC's status as an NME country. No party has challenged the designation of the PRC as an NME country in this investigation. Therefore, the Department continues to treat the PRC as an NME for purposes of the final determination.

Surrogate Country

In the preliminary determination, the Department selected Thailand as the appropriate surrogate country for use in this investigation pursuant to section 773(c)(4) of the Act based on the following: (1) It is at a similar level of economic development as the PRC; (2) it is a significant producer of merchandise comparable to the merchandise under consideration; and (3) the record contains reliable data from Thailand that the Department can use to value the factors of production.¹² The Department has not made changes to these findings for the final determination.

Use of Facts Available and Adverse Facts Available

Section 776(a) of the Act provides that the Department shall apply facts available ("FA") if (1) necessary information is not on the record, or (2) an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying FA when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Such an adverse inference may include

¹¹ See Transfar's Verification Report; Hongda's Verification Report.

¹² See Memorandum to Abdelali Elouaradia from Shawn Higgins, "Certain Stilbenic Optical Brightening Agents from the People's Republic of China: Surrogate Country Memorandum" (October 27, 2011).

reliance on information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

PRC-Wide Entity

In the *Preliminary Determination*, the Department determined that certain PRC exporters/producers did not respond to the Department’s requests for information including information pertaining to whether they were separate from the PRC-wide entity.¹³ Thus, the Department has found that these PRC exporters/producers are part of the PRC-wide entity and the PRC-wide entity has not responded to requests for information.¹⁴ No additional information was placed on the record with respect to any of these companies after the *Preliminary Determination*. Because the PRC-wide entity did not provide the Department with requested information, pursuant to section 776(a)(2)(A) of the Act, the Department continues to find it appropriate to base the PRC-wide rate on FA.

Because the PRC-wide entity did not respond to our request for information, the Department has determined that the PRC-wide entity has failed to cooperate to the best of its ability. Therefore, pursuant to section 776(b) of the Act, the Department has found that, in selecting from among the FA, an adverse inference is appropriate for the PRC-wide entity.

Because the Department begins with the presumption that all companies within an NME country are subject to government control and only the mandatory respondents have overcome that presumption, the Department is

applying a single antidumping rate to all other exporters of merchandise under consideration from the PRC. Such companies have not demonstrated entitlement to a separate rate.¹⁵ Accordingly, the PRC-wide entity rate applies to all entries of merchandise under consideration except for entries from Transfar and Hongda.

Selection of the Adverse Facts Available Rate for the PRC-Wide Entity

In selecting a rate for adverse facts available (“AFA”), the Department selects a rate that is sufficiently adverse “as to effectuate the purpose of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.”¹⁶ Further, it is the Department’s practice to select a rate that ensures “that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.”¹⁷ It is the Department’s practice to select as AFA the higher of (a) the highest margin alleged in the petition or (b) the highest rate calculated for any respondent in the investigation.¹⁸ The highest margin alleged in the petition is 203.16 percent.¹⁹ This rate is higher than any of the rates calculated for individually examined companies. Thus, as AFA, the Department’s practice would be to assign the rate of 203.16 percent to the PRC-wide entity. However, in order to determine the probative value of the margins in the petition for use as AFA for purposes of this final determination, the Department examined information on the record and found that it was unable to corroborate either the highest margin in the petition or both its U.S. price and normal value

components. In addition, the Department does not find the highest calculated weighted-average margin of the mandatory respondents to be sufficiently adverse to act as the AFA rate.²⁰ The Department finds, however, that the highest transaction-specific margin of the mandatory respondents (*i.e.*, 109.95 percent) is sufficiently adverse to serve as the AFA rate.²¹ No corroboration of this rate is necessary because the Department is relying on information obtained in the course of this investigation, rather than secondary information.²² This was the same methodology the Department employed in the *Preliminary Determination*. No interested party has commented on this methodology for calculating the PRC-wide rate.

The dumping margin for the PRC-wide entity applies to all entries of the merchandise under investigation except for entries of merchandise under investigation from the exporter/ manufacturer combinations listed in the chart in the “Final Determination” section below.

Combination Rates

In the *Initiation Notice*, the Department stated that it would calculate combination rates for respondents that are eligible for a separate rate in this investigation.²³ This practice is described in Policy Bulletin 05.1.²⁴

Final Determination

The Department determines that the following dumping margins exist for the period July 1, 2010, through December 31, 2010:

Exporter	Producer	Weighted average margin
Zhejiang Hongda Chemicals Co., Ltd	Zhejiang Hongda Chemicals Co., Ltd	95.29
Zhejiang Transfar Whyyon Chemical Co., Ltd	Zhejiang Transfar Whyyon Chemical Co., Ltd	63.98
PRC-wide Entity	109.95

¹³ See *Preliminary Determination*, 76 FR at 68150.

¹⁴ *Id.*

¹⁵ See *Notice of Final Determination of Sales at Less Than Fair Market Value: Synthetic Indigo From the People’s Republic of China*, 65 FR 25706, 25707 (May 2, 2000).

¹⁶ See *Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909, 8932 (Feb. 23, 1998).

¹⁷ See *Brake Rotors from the People’s Republic of China: Final Results and Partial Rescission of the Seventh Administrative Review; Final Results of the Eleventh New Shipper Review*, 70 FR 69937, 69939 (Nov. 18, 2005) (quoting the Statement of

Administrative Action accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong., 2d Sess. 870 (1994)).

¹⁸ See *Seamless Refined Copper Pipe and Tube From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 75 FR 60725, 60729 (October 1, 2010).

¹⁹ See *Certain Stilbenic Optical Brightening Agents From the People’s Republic of China and Taiwan: Initiation of Antidumping Duty Investigations*, 76 FR 23554, 23558 (April 27, 2011) (“*Initiation Notice*”).

²⁰ See *Multilayered Wood Flooring From the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 76 FR 64318, 64322 (October 18, 2011).

²¹ *Id.*

²² See 19 CFR 351.308(c) and (d) and section 776(c) of the Act; *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances, in Part: Light-Walled Rectangular Pipe and Tube from the People’s Republic of China*, 73 FR 35652, 35653 (June 24, 2008) and accompanying Issues and Decision Memorandum at Comment 1.

²³ See *Initiation Notice*, 76 FR at 23559.

²⁴ See Policy Bulletin 05.1: Separate Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries, available at <http://ia.ita.doc.gov/policy/bull05-1.pdf>.

Disclosure

The Department intends to disclose the calculations performed to parties in this proceeding within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection ("CBP") to continue to suspend liquidation of all appropriate entries of stilbenic OBAs from the PRC as described in the "Scope of Investigation" section, entered, or withdrawn from warehouse, for consumption on or after November 3, 2011, the date of publication of the *Preliminary Determination* in the **Federal Register**. The Department will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds U.S. price, as indicated above.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission ("ITC") of the final affirmative determination of sales at LTFV. As the Department's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation, of the merchandise under consideration. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the merchandise under consideration entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

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

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: March 19, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

Appendix I**Issues for Final Determination**

- Issue 1: Whether the Department Should Revise the Surrogate Value for 4,4'-Diamino-2,2'-Stilbenedisulfonic Acid
- Issue 2: Whether the Department Should Revise the Calculation of the Surrogate Financial Ratios
- Issue 3: Whether the Department Should Revise the Surrogate Value for Ice Blocks
- Issue 4: Whether the Department Should Revise the Surrogate Value for Ocean Freight
- Issue 5: Whether the Department Should Revise the Surrogate Value for Brokerage and Handling
- Issue 6: Whether the Department Should Revise the Surrogate Value for Labor

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