

subsidies are being provided to producers/exporters of laminated woven sacks (LWS) from the People's Republic of China (PRC). For information on the estimated subsidy rates, see the "Final Determination" section of this notice.

**EFFECTIVE DATE:** June 24, 2008.

**FOR FURTHER INFORMATION CONTACT:**

Sean Carey, Gene Calvert, or Paul Matino, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3964, (202) 482-3586, or (202) 482-4146, respectively.

**SUPPLEMENTARY INFORMATION:**

**Case History**

The following events have occurred since the publication of the preliminary determination in the **Federal Register** on December 3, 2007. *See Laminated Woven Sacks From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination; Preliminary Affirmative Determination of Critical Circumstances, In Part; and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 72 FR 67893 (December 3, 2007) (*Preliminary Determination*). On December 13, 2007, the Department issued supplemental questionnaires to Zibo Aifudi Plastic Packaging Co., Ltd. (Aifudi) and Shandong Shouguang Jianyuanchun Co., Ltd. and its cross-owned affiliate Shandong Longxing Plastic Products Co., Ltd. (SSJ/SLP).<sup>1</sup> We issued a supplemental questionnaire to the Government of the People's Republic of China (GOC) on December 14, 2007. We received responses to these questionnaires from SSJ/SLP on January 2, 2008, and from the GOC and Aifudi on January 3, 2008. We issued an

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**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[C-570-917]

**Laminated Woven Sacks From the People's Republic of China: Final Affirmative Countervailing Duty Determination and Final Affirmative Determination, in Part, of Critical Circumstances**

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

**SUMMARY:** The Department of Commerce (the Department) has reached a final determination that countervailable

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<sup>1</sup> SSJ was one of the four mandatory company respondents selected by the Department. *See* Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, "Respondent Selection" (July 31, 2007). This memorandum is on file in the Central Records Unit (CRU), Room 1117 of the main Commerce building. Subsequently, we determined that SSJ was cross-owned with SLP (*see Preliminary Determination*, 72 FR at 67900) (December 3, 2007), and for purposes of this final determination, we are referring to these mandatory respondents as SSJ/SLP. The other three mandatory company respondents are: Han Shing Chemical Co., Ltd. (Han Shing Chemical), Ningbo Yong Feng Packaging Co., Ltd. (Ningbo), Shandong Qilu Plastic Fabric Group, Ltd. (Qilu). On October 24, 2007, the Department accepted Aifudi as a voluntary respondent for the investigation pursuant to 19 CFR 351.204(d)(2). *See* Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, "Voluntary Respondent Selection" (October 24, 2007). This memorandum is on file in the Department's CRU.

additional supplemental questionnaire to SSJ/SLP on January 11, 2008, and received a response on January 17, 2008. On December 27, 2007, the Department received requests for a hearing from the Laminated Woven Sacks Committee and its individual members, Bancroft Bag, Inc., Coating Excellence International, LLC, Hood Packaging Corporation, Mid-America Packaging, LLC, and Polytex Fibers Corporation (collectively, petitioners), and from the GOC.

Parties submitted timely comments on the Department's analysis of land-use rights as requested in the *Preliminary Determination*. Subsequent to the *Preliminary Determination*, parties also submitted factual information, comments, or clarifying information at several points prior to this final determination based on deadlines for submissions of factual information and/or arguments established by the Department or in accordance with 19 CFR 351.301(a)(1).

On January 22, 2008, the Department decided not to verify SSJ/SLP. See Letter to SSJ/SLP, *Countervailing Duty Investigation: Laminated Woven Sacks from the People's Republic of China* (January 22, 2008) (on file in the Department's CRU). From January 16 through January 25, 2008, we conducted verification of the questionnaire responses submitted by the GOC, including the national, provincial, and local governments, and Aifudi. The Department issued verification reports on February 28, 2008 and March 4, 2008. See Memoranda to the File, *Countervailing Duty Investigation: Laminated Woven Sacks (LWS) from the People's Republic of China: Verification of the Questionnaire Responses Submitted by the Government of the People's Republic of China (GOC) – Central Government; Countervailing Duty Investigation: Laminated Woven Sacks (LWS) from the People's Republic of China: Verification of the Questionnaire Responses Submitted by the Government of the People's Republic of China (GOC) – Provincial and Local Government; and Countervailing Duty Investigation: Laminated Woven Sacks (LWS) from the People's Republic of China: Verification of the Questionnaire Responses Submitted by Zibo Aifudi Plastic Packaging Co., Ltd.*

On April 22, 2008, we issued our post-preliminary determination regarding the new subsidy allegations, which we had decided to investigate on November 2, 2007. See Memorandum to David M. Spooner, Assistant Secretary for Import Administration, *Countervailing Duty Investigation of Laminated Woven Sacks from the People's Republic of China; Post-*

*Preliminary Analysis of New Subsidy Allegations* (April 22, 2008) (*Post-Preliminary Analysis*), on file in the Department's CRU.

We received case briefs from the GOC, Aifudi, and petitioners on May 2, 2008. The same parties submitted rebuttal briefs on May 7, 2008. On May 8, 2008, the GOC's case brief was returned because the Department determined that it contained untimely new factual information, as well as timely filed new factual information related to the Department's *Post-Preliminary Analysis*. The GOC resubmitted its case brief on May 12, 2008 without the untimely filed new factual information. On May 8, 2008 we informed all parties that they had an opportunity to rebut the new factual information submitted by the GOC pertaining to the Department's *Post-Preliminary Analysis*. On May 12, 2008, petitioners submitted factual information to rebut information provided by the GOC. We held a public hearing for this investigation on May 14, 2008.

#### Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is calendar year 2006.

#### Scope of the Investigation

In the Preliminary Determination, we stated that we had received scope comments from petitioners, and that such comments would be addressed in the preliminary determination of the companion antidumping investigation. See Preliminary Determination, 72 FR at 67894. Based on those comments, the Department determined to amend the scope of the investigation and afforded interested parties the opportunity to comment on those changes. See *Laminated Woven Sacks From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Partial Affirmative Determination of Critical Circumstances, and Postponement of Final Determination*, 73 FR 5801 (January 31, 2008). No parties provided comments, and as such, we are making no changes to the scope as set forth in the preliminary determination in the companion antidumping investigation. See *id.*

The merchandise covered by this investigation is laminated woven sacks. Laminated woven sacks are bags or sacks consisting of one or more plies of fabric consisting of woven polypropylene strip and/or woven polyethylene strip, regardless of the width of the strip; with or without an extrusion coating of polypropylene and/or polyethylene on one or both sides of the fabric; laminated by any method

either to an exterior ply of plastic film such as biaxially-oriented polypropylene ("BOPP") or to an exterior ply of paper that is suitable for high quality print graphics;<sup>2</sup> printed with three colors or more in register; with or without lining; whether or not closed on one end; whether or not in roll form (including sheets, lay-flat tubing, and sleeves); with or without handles; with or without special closing features; not exceeding one kilogram in weight. Laminated woven sacks are typically used for retail packaging of consumer goods such as pet foods and bird seed.

Effective July 1, 2007, laminated woven sacks are classifiable under Harmonized Tariff Schedule of the United States ("HTSUS") subheadings 6305.33.0050 and 6305.33.0080. Laminated woven sacks were previously classifiable under HTSUS subheading 6305.33.0020. If entered with plastic coating on both sides of the fabric consisting of woven polypropylene strip and/or woven polyethylene strip, laminated woven sacks may be classifiable under HTSUS subheadings 3923.21.0080, 3923.21.0095, and 3923.29.0000. If entered not closed on one end or in roll form (including sheets, lay-flat tubing, and sleeves), laminated woven sacks may be classifiable under other HTSUS subheadings including 3917.39.0050, 3921.90.1100, 3921.90.1500, and 5903.90.2500.

If the polypropylene strips and/or polyethylene strips making up the fabric measure more than 5 millimeters in width, laminated woven sacks may be classifiable under other HTSUS subheadings including 4601.99.0500, 4601.99.9000, and 4602.90.000. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive.

#### Injury Test

Because the PRC is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Tariff Act of 1930, as amended (the Act), section 701(a)(2) of the Act applies to this investigation. Accordingly, the International Trade Commission (ITC) must determine whether imports of the subject merchandise from the PRC materially injure, or threaten material injury to, a U.S. industry, or whether such imports materially retard the

<sup>2</sup> "Paper suitable for high quality print graphics," as used herein, means paper having an ISO brightness of 82 or higher and a Sheffield Smoothness of 250 or less. Coated free sheet is an example of a paper suitable for high quality print graphics.

establishment of an industry in the United States. On August 14, 2007, the ITC published its preliminary determination that there is a reasonable indication that an industry in the United States is materially retarded by reason of imports from the PRC of Laminated Woven Sacks. See *Laminated Woven Sacks from China*, USITC Pub. 3942, Inv. Nos. 701-TA-450 and 731-TA-1122 (Preliminary) (August 2007).

#### Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised by interested parties in their case briefs and rebuttal briefs on the *Preliminary Determination* and the *Post-Preliminary Analysis*, are discussed in the *Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Determination of Laminated Woven Sacks from the People's Republic of China (Decision Memorandum)*. A list of the subsidy programs and of the issues that parties have raised is attached to this notice as Appendix I. Parties can find a complete discussion of all of the subsidy programs and issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Department's CRU. A complete version of the *Decision Memorandum* is available at <http://www.trade.gov/ia> under the heading "Federal Register Notices." The paper copy and the electronic version of the *Decision Memorandum* are identical in content.

#### Application of Facts Available, Including the Application of Adverse Inferences

For purposes of this final determination, we have relied on facts available and have used adverse inferences to determine the countervailable subsidy rates for the four mandatory company respondents: Han Shing Chemical, Ningbo, Qilu, and SSJ/SLP, in accordance with sections 776(a) and (b) of the Act. In addition, we are also applying facts available with an adverse inference, in part, with respect to our determination of the countervailability of two programs: Government Policy Lending and Government Provision of Inputs for Less Than Adequate Remuneration. A full discussion of our decision to apply adverse facts available is presented in the *Decision Memorandum* in the sections "Application of Facts Available and Use of Adverse Inferences" and in "Analysis of Comments" (Comments 3, 4, 5, 13 and 19).

#### Critical Circumstances

Pursuant to section 705(a)(2) of the Act, in order to find critical circumstances, the Department must find that there are countervailable subsidies that are inconsistent with the World Trade Organization Agreement on Subsidies and Countervailing Measures (the Subsidies Agreement), and that there have been massive imports over a relatively short period (*i.e.*, whether there was a surge in imports). For purposes of this final determination, we are making an affirmative determination of critical circumstances with respect to all four mandatory respondents (Han Shing Chemical, Ningbo, Qilu, and SSJ/SLP). For the voluntary respondent, Aifudi, we are making a negative final determination of critical circumstances because we verified that it has not received any subsidies that are inconsistent with the Subsidies Agreement. For "all others," we have made a negative determination of critical circumstances in accordance with section 705(a)(2) of the Act. For a complete discussion of our critical circumstances determination, see the "Critical Circumstances" section in the *Decision Memorandum*.

#### Final Determination

In accordance with section 705(c)(1)(B)(i) of the Act, we determine the total countervailable subsidy rates to be:

Producer/Exporter	Net Subsidy Rate
Han Shing Chemical Co., Ltd. (Han Shing Chemical) .....	223.74%
Ningbo Yong Feng packaging Co., Ltd. (Ningbo) .....	223.74%
Shandong Qilu Plastic Fabric Group, Ltd. (Qilu) .....	304.40%
Shandong Shouguang Jianyuan Chun Co., Ltd. (SSJ) / Shandong Longxing Plastic Products Company Ltd. (SLP) .....	352.82%
Zibo Aifudi Plastic Packaging Co., Ltd. (Aifudi) .....	29.54%
All Others .....	226.85%

In accordance with section 705(c)(5)(A)(ii) of the Act, we have determined that the most reasonable method for determining the all others rate is a simple average of the four mandatory respondents' AFA rates and the calculated rate for Aifudi. See *Decision Memorandum* at Comment 21 for a more detailed discussion of the all others rate determination.

#### Suspension of Liquidation

Because we preliminarily determined that critical circumstances existed for

entries of LWS produced/exported by Han Shing Chemical and Ningbo, we instructed U.S. Customs and Border Protection (CBP), in accordance with sections 703(d)(1)(B) and (2) and 703(e)(2)(A) of the Act, to suspend liquidation of entries of LWS produced/exported by Han Shing Chemical and Ningbo which were entered, or withdrawn from warehouse, for consumption on or after December 3, 2007, and to apply the suspension of liquidation to any unliquidated entries entered, or withdrawn from warehouse, for consumption on or after September 4, 2007 (90 days before the date of publication of the *Preliminary Determination*). For all other producers/exporters, we ordered CBP to suspend liquidation for all entries entered, or withdrawn from warehouse, on or after December 3, 2007.

In accordance with section 703(d) of the Act, we instructed CBP to discontinue the suspension of liquidation for countervailing duty purposes for subject merchandise entered on or after April 1, 2008, but to continue the suspension of liquidation of entries made from Han Shing Chemical and Ningbo from September 4, 2007 through April 1, 2008 and, for all other entries, to continue the suspension of liquidation from December 3, 2007 through April 1, 2008. Now that the Department has reached a final affirmative determination of critical circumstances for Qilu and SSJ/SLP, pursuant to section 705(c)(4)(B) of the Act, we will instruct CBP to apply the previously ordered suspension of liquidation for Qilu and SSJ/SLP retroactively to any unliquidated entries entered, or withdrawn from warehouse, for consumption on or after September 4, 2007 (90 days before the date of publication of the *Preliminary Determination*) and on or before April 1, 2008.

If the ITC issues a final affirmative determination of injury, we will issue a countervailing duty order, reinstate suspension of liquidation under section 706(a) of the Act for all entries, and require a cash deposit of estimated countervailing duties for such entries of merchandise at the rates indicated above. If the ITC determines that material injury, threat of material injury to, or material retardation of, the domestic industry does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

**ITC Notification**

In accordance with section 705(d) 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 related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms it will not disclose such information, either publicly or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Import Administration.

**Return or Destruction of Proprietary Information**

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with section 351.305(a)(3) of the Department's regulations. Failure to comply is a violation of the APO.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Dated: June 16, 2008.

**Stephen J. Claey's,**

*Acting Assistant Secretary for Import Administration.*

**Appendix I: Decision Memorandum****I. Summary****II. Background****III. Application of Facts Available and Use of Adverse Inferences**

- A. Application of Facts Available, Including the Application of Adverse Inferences
- B. Selection of the Adverse Facts Available

**IV. Critical Circumstances****V. Subsidies Valuation Information**

- A. Attribution of Subsidies and Cross-Ownership
- B. Loan Benchmarks and Discount Rate

**VI. Analysis of Programs**

- A. Programs Determined to Be Countervailable
- B. Program Determined to Be Not Countervailable
- C. Programs Determined to Be Not Used by Aifudi
- D. Programs Determined to Be Terminated

**VII. Analysis of Comments**

*Comment 1:* Application of the Countervailing Duty Law to Non-Market Economy Countries

*Comment 2:* Whether the Department Can Measure Subsidies that have been Alleged to Occur Prior to the Department's Determination to Apply CVD Law to China

*Comment 3:* Whether the Department Should Apply Adverse Facts Available to All Mandatory Respondents

*Comment 4:* Whether the Department Can Find that a Program Has Been Used and Is Countervailable for Non-Cooperating Respondents

*Comment 5:* Whether the Calculated Rates for Aifudi Should be Applied as Adverse Facts Available to the Mandatory Respondents

*Comment 6:* Whether the Department Should Apply Partial Adverse Facts Available to Aifudi

*Comment 7:* Whether the Provision of Electricity for Less Than Adequate Remuneration Is Countervailable

*Comment 8:* Whether the GOC Provision of Land Can Be Countervailed

*Comment 9:* Whether the GOC's Sale of Land-Use Rights is Specific

*Comment 10:* Whether the Department Should Select Either a First-Tier or Third-Tier Benchmark for the Provision of Land-Use Rights for Less Than Adequate Remuneration

*Comment 11:* Whether the Department Can Lawfully Apply an External Benchmark for the Provision of Land-Use Rights for Less than Adequate Remuneration

*Comment 12:* Whether the Provision of Petrochemical Inputs for Less Than Adequate Remuneration by SOEs is Countervailable

*Comment 13:* Whether SOEs Distort the Market in the PRC

*Comment 14:* Alternative Benchmark for the Provision of Petrochemical Inputs for Less Than Adequate Remuneration

*Comment 15:* Whether the Department Can Use Data from the World Trade Atlas to Determine a Benchmark for Petrochemical Inputs

*Comment 16:* Whether the Sale of Petrochemical Inputs is Consistent with Market Principles

*Comment 17:* Whether the Department Should Make an Adjustment for Freight in the Benchmark for Petrochemical Inputs

*Comment 18:* Whether the GOC Provides Government Policy Lending to the LWS Industry

*Comment 19:* Whether the Department May Countervail the Policy Lending Program as Adverse Facts Available

*Comment 20:* The Appropriate Benchmark to Use for the Policy Lending Program

*Comment 21:* The Determination of the All Others Rate

**VIII. Recommendation**

[FR Doc. E8-14256 Filed 6-23-08; 8:45 am]

BILLING CODE 3510-DS-S