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DATE: October 3, 2016

MEMORANDUM TO: Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

FROM: Gary Taverman   
Associate Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for the Preliminary Results of the  
Administrative Review of the Antidumping Duty Order on Narrow  
Woven Ribbons with Woven Selvedge from Taiwan

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## SUMMARY

The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty (AD) order on narrow woven ribbons with woven selvedge (NWR) from Taiwan. The review covers two producers/exporters of the subject merchandise (i.e., mandatory respondents, Rong Shu Industry Corporation (Rong Shu) and A-Madeus Textile Ltd. (A-Madeus)). The period of review (POR) is September 1, 2014, through August 31, 2015. We preliminarily find that sales of the subject merchandise have been made at prices below normal value (NV). Additionally, we preliminarily determine that two companies for which we initiated a review did not have any shipments during the POR.

## BACKGROUND

In September 2010, the Department published in the Federal Register an AD order on NWR from Taiwan.<sup>1</sup> Subsequently, on September 1, 2015, the Department published in the Federal Register a notice of opportunity to request an administrative review of the AD order on NWR from Taiwan for the period September 1, 2014, through August 31, 2015.<sup>2</sup>

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<sup>1</sup> See Narrow Woven Ribbons with Woven Selvedge from Taiwan and the People's Republic of China: Antidumping Duty Orders, 75 FR 53632 (September 1, 2010), as amended in Narrow Woven Ribbons With Woven Selvedge From Taiwan and the People's Republic of China: Amended Antidumping Duty Orders, 75 FR 56982 (September 17, 2010).

<sup>2</sup> See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity to Request Administrative Review, 80 FR 52741 (September 1, 2015).

Pursuant to section 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b)(1), in September 2015, the Department received requests to conduct an administrative review from Berwick Offray LLC and its wholly-owned subsidiary Lion Ribbon Company, LLC, (the petitioner), for four Taiwanese producers/exporters.<sup>3</sup> On November 9, 2015, in accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of administrative review for the four companies. In the Initiation Notice, the Department indicated that, in the event that we would limit the respondents selected for individual examination in accordance with section 777A(c)(2) of the Act, we would select mandatory respondents for individual examination based upon U.S. Customs and Border Protection (CBP) entry data.<sup>4</sup>

In November 2015, we received statements from two companies, Fujian Rongshu and Xiamen Yi He, indicating that they had no shipments of subject merchandise to the United States during the POR.<sup>5</sup>

In December 2015, using CBP entry data, we selected A-Madeus and Rong Shu as mandatory respondents and issued the AD questionnaires to these companies. In January 2016, we received Rong Shu's responses to the questionnaire. However, A-Madeus did not respond to the Department's questionnaire in this administrative review.<sup>6</sup> Therefore, in accordance with sections 776(a)(1) and (2)(A), (B), and (C) and 776(b) of the Act, for these preliminary results, the Department has applied facts otherwise available with an adverse inference when determining A-Madeus' rate. See the sections "Use of Facts Otherwise Available" and "Application of Facts Available with an Adverse Inference," below, for further discussion.

Also in January 2016, as explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department exercised its discretion to toll all administrative deadlines due to the closure of the Federal Government.<sup>7</sup> All deadlines in this segment of the proceeding have been extended by four business days. In May 2016, the Department extended the preliminary results deadline to October 5, 2016, in accordance with 751(a)(3)(A) of the Act.<sup>8</sup>

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<sup>3</sup> See letter to the Department from the petitioner, entitled, "Narrow Woven Ribbons With Woven Selvedge From Taiwan/Request For Fifth Review," dated September 30, 2015. The companies for which a review was requested are listed as follows: A-Madeus; Fujian Rongshu Industry Co., Ltd. (Fujian Rongshu); Rong Shu; and Xiamen Yi He Textile Co., Ltd. (Xiamen Yi He).

<sup>4</sup> See Initiation of Antidumping and Countervailing Duty Administrative Reviews, 80 FR 69193 (November 9, 2015) (Initiation Notice) at 69194.

<sup>5</sup> See letter to the Department from Xiamen Yi He, entitled, "Narrow Woven Ribbons with Woven Selvedge from Taiwan: No Shipment Letter," dated November 24, 2015; and letter to the Department from Fujian Rongshu, entitled, "Narrow Woven Ribbons with Woven Selvedge from Taiwan: No Shipment Letter," dated November 24, 2015.

<sup>6</sup> See Memorandum from Alice Maldonado, International Trade Analyst, to the File, entitled, "Placing Fedex Shipping Confirmations on the Record of the 2014-2015 Antidumping Duty Administrative Review on Narrow Woven Ribbons with Woven Selvedge from Taiwan," dated January 11, 2016 (A-Madeus Shipping Confirmation).

<sup>7</sup> See Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, regarding "Tolling of Administrative Deadlines as a Result of the Government Closure during Snowstorm Jonas," dated January 27, 2016.

<sup>8</sup> See Memorandum to Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and

From June 2016 through August 2016, the Department issued one sales and one cost supplemental questionnaire to Rong Shu. We received responses to these supplemental questionnaires in the same months.

In September 2016, we verified the sales information submitted by Rong Shu at its corporate offices in Taichung, Taiwan. We intend to verify the cost of production (COP) information submitted by Rong Shu after these preliminary results.

### **SCOPE OF THE ORDER**

The scope of this order covers narrow woven ribbons with woven selvedge, in any length, but with a width (measured at the narrowest span of the ribbon) less than or equal to 12 centimeters, composed of, in whole or in part, man-made fibers (whether artificial or synthetic, including but not limited to nylon, polyester, rayon, polypropylene, and polyethylene terephthalate), metal threads and/or metalized yarns, or any combination thereof. Narrow woven ribbons subject to the order may:

- also include natural or other non-man-made fibers;
- be of any color, style, pattern, or weave construction, including but not limited to single faced satin, double-faced satin, grosgrain, sheer, taffeta, twill, jacquard, or a combination of two or more colors, styles, patterns, and/or weave constructions;
- have been subjected to, or composed of materials that have been subjected to, various treatments, including but not limited to dyeing, printing, foil stamping, embossing, flocking, coating, and/or sizing;
- have embellishments, including but not limited to appliqué, fringes, embroidery, buttons, glitter, sequins, laminates, and/or adhesive backing;
- have wire and/or monofilament in, on, or along the longitudinal edges of the ribbon;
- have ends of any shape or dimension, including but not limited to straight ends that are perpendicular to the longitudinal edges of the ribbon, tapered ends, flared ends or shaped ends, and the ends of such woven ribbons may or may not be hemmed;
- have longitudinal edges that are straight or of any shape, and the longitudinal edges of such woven ribbon may or may not be parallel to each other;

- consist of such ribbons affixed to like ribbon and/or cut-edge woven ribbon, a configuration also known as an “ornamental trimming;”
- be wound on spools; attached to a card; hanked (i.e., coiled or bundled); packaged in boxes, trays or bags; or configured as skeins, balls, bateaus or folds; and/or
- be included within a kit or set such as when packaged with other products, including but not limited to gift bags, gift boxes and/or other types of ribbon.

Narrow woven ribbons subject to the order include all narrow woven fabrics, tapes, and labels that fall within this written description of the scope of this antidumping duty order.

Excluded from the scope of the order are the following:

- (1) formed bows composed of narrow woven ribbons with woven selvedge;
- (2) “pull-bows” (i.e., an assemblage of ribbons connected to one another, folded flat and equipped with a means to form such ribbons into the shape of a bow by pulling on a length of material affixed to such assemblage) composed of narrow woven ribbons;
- (3) narrow woven ribbons comprised at least 20 percent by weight of elastomeric yarn (i.e., filament yarn, including monofilament, of synthetic textile material, other than textured yarn, which does not break on being extended to three times its original length and which returns, after being extended to twice its original length, within a period of five minutes, to a length not greater than one and a half times its original length as defined in the Harmonized Tariff Schedule of the United States (HTSUS), Section XI, Note 13) or rubber thread;
- (4) narrow woven ribbons of a kind used for the manufacture of typewriter or printer ribbons;
- (5) narrow woven labels and apparel tapes, cut-to-length or cut-to-shape, having a length (when measured across the longest edge-to-edge span) not exceeding eight centimeters;
- (6) narrow woven ribbons with woven selvedge attached to and forming the handle of a gift bag;
- (7) cut-edge narrow woven ribbons formed by cutting broad woven fabric into strips of ribbon, with or without treatments to prevent the longitudinal edges of the ribbon from fraying (such as by merrowing, lamination, sono-bonding, fusing, gumming or waxing), and with or without wire running lengthwise along the longitudinal edges of the ribbon;
- (8) narrow woven ribbons comprised at least 85 percent by weight of threads having a denier of 225 or higher;
- (9) narrow woven ribbons constructed from pile fabrics (i.e., fabrics with a surface effect formed by tufts or loops of yarn that stand up from the body of the fabric);

- (10) narrow woven ribbon affixed (including by tying) as a decorative detail to non-subject merchandise, such as a gift bag, gift box, gift tin, greeting card or plush toy, or affixed (including by tying) as a decorative detail to packaging containing non-subject merchandise;
- (11) narrow woven ribbon that is (a) affixed to non-subject merchandise as a working component of such non-subject merchandise, such as where narrow woven ribbon comprises an apparel trimming, book marker, bag cinch, or part of an identity card holder, or (b) affixed (including by tying) to non-subject merchandise as a working component that holds or packages such non-subject merchandise or attaches packaging or labeling to such non-subject merchandise, such as a “belly band” around a pair of pajamas, a pair of socks or a blanket;
- (12) narrow woven ribbon(s) comprising a belt attached to and imported with an item of wearing apparel, whether or not such belt is removable from such item of wearing apparel; and
- (13) narrow woven ribbon(s) included with non-subject merchandise in kits, such as a holiday ornament craft kit or a scrapbook kit, in which the individual lengths of narrow woven ribbon(s) included in the kit are each no greater than eight inches, the aggregate amount of narrow woven ribbon(s) included in the kit does not exceed 48 linear inches, none of the narrow woven ribbon(s) included in the kit is on a spool, and the narrow woven ribbon(s) is only one of multiple items included in the kit.

The merchandise subject to this order is classifiable under the HTSUS statistical categories 5806.32.1020; 5806.32.1030; 5806.32.1050; and 5806.32.1060. Subject merchandise also may enter under subheadings 5806.31.00; 5806.32.20; 5806.39.20; 5806.39.30; 5808.90.00; 5810.91.00; 5810.99.90; 5903.90.10; 5903.90.25; 5907.00.60; and 5907.00.80 and under statistical categories 5806.32.1080; 5810.92.9080; 5903.90.3090; and 6307.90.9889. The HTSUS statistical categories and subheadings are provided for convenience and customs purposes; however, the written description of the merchandise covered by this order is dispositive.

## **PRELIMINARY DETERMINATION OF NO SHIPMENTS**

During the review, we received timely filed no-shipment claims from Xiamen Yi He and Fujian Rongshu,<sup>9</sup> two of the four companies named in the Initiation Notice. In addition, in response to the Department’s query, CBP did not provide any evidence that contradicted Xiamen Yi He’s or Fujian Rongshu’s claim of no shipments.<sup>10</sup> Because the evidence on the record indicates that

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<sup>9</sup> See letters from Xiamen Yi He and Fujian Rongshu to the Department, entitled, “Narrow Woven Ribbons with Woven Selvedge from Taiwan: No Shipment Letter,” dated November 24, 2015.

<sup>10</sup> See Memorandum to the File from David Crespo, Senior International Trade Compliance Analyst, entitled, “2014-2015 Antidumping Duty Administrative Review: Narrow Woven Ribbons with Woven Selvedge from Taiwan; Release of Customs Entry Data,” dated November 23, 2015. See also Message Number 6237307 to Directors of Field Operations, Port Directors, from Director AD/CVD & Revenue Policy & Programs, entitled, “No

Xiamen Yi He and Fujian Rongshu did not export subject merchandise to the United States during the POR, we preliminarily determine that neither company had reviewable transactions in this administrative review.

## **DISCUSSION OF THE METHODOLOGY**

### Normal Value Comparisons

Pursuant to section 773(a) of the Act and 19 CFR 351.414(c)(1) and (d), in order to determine whether Rong Shu's sales of subject merchandise from Taiwan to the United States were made at less than NV, the Department compared the export price (EP) to the NV as described in the "Export Price" and "Normal Value" sections of this memorandum.

### Determination of the Comparison Method

Pursuant to 19 CFR 351.414(c)(1), the Department calculates weighted-average dumping margins by comparing weighted-average NVs to weighted-average EPs (*i.e.*, the average-to-average method) unless the Secretary determines that another method is appropriate in a particular situation. In less-than-fair-value (LTFV) investigations, the Department examines whether to compare weighted-average NVs with the EPs of individual sales (*i.e.*, the average-to-transaction method) as an alternative comparison method using an analysis consistent with section 777A(d)(1)(B) of the Act. Although section 777A(d)(1)(B) of the Act does not strictly govern the Department's examination of this question in the context of administrative reviews, the Department nevertheless finds that the issue arising under 19 CFR 351.414(c)(1) in administrative reviews is, in fact, analogous to the issue in LTFV investigations.<sup>11</sup>

In recent investigations, the Department has applied a "differential pricing" analysis for determining whether application of the average-to-transaction method is appropriate in a particular situation pursuant to 19 CFR 351.414(c)(1) and section 777A(d)(1)(B) of the Act.<sup>12</sup> The Department finds that the differential pricing analysis used in recent investigations may be instructive for purposes of examining whether to apply an alternative comparison method in this administrative review. The Department will continue to develop its approach in this area based on comments received in this and other proceedings, and on the Department's additional

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Shipments Inquiry For Narrow Woven Ribbons with Woven Selvedge from Taiwan (A-583-844)," dated August 24, 2016, instructing CBP to report any entries contrary to Xiamen Yi He's or Fujian Rongshu's no shipment claim to the Department within ten days of the date of that message. We note that we did not receive such information within ten days.

<sup>11</sup> See Ball Bearings and Parts Thereof From France, Germany, and Italy: Final Results of Antidumping Duty Administrative Reviews; 2010–2011, 77 FR 73415 (December 10, 2012), and accompanying Issues and Decision Memorandum at Comment 1; see also Apex Frozen Foods Private Ltd. v. United States, 37 F. Supp. 3d 1286 (Ct. Int'l Trade 2014).

<sup>12</sup> See, e.g., Xanthan Gum From the People's Republic of China: Final Determination of Sales at Less Than Fair Value, 78 FR 33351 (June 4, 2013); Steel Concrete Reinforcing Bar From Mexico: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, 79 FR 54967 (September 15, 2014); and Welded Line Pipe From the Republic of Turkey: Final Determination of Sales at Less Than Fair Value, 80 FR 61362 (October 13, 2015).

experience with addressing the potential masking of dumping that can occur when the Department uses the average-to-average method in calculating a respondent's weighted-average dumping margin.

The differential pricing analysis used in these preliminary results examines whether there exists a pattern of EPs for comparable merchandise that differ significantly among purchasers, regions, or time periods. The analysis evaluates all export sales by purchasers, regions, and time periods to determine whether a pattern of prices that differ significantly exists. If such a pattern is found, then the differential pricing analysis evaluates whether such differences can be taken into account when using the average-to-average method to calculate the weighted-average dumping margin. The analysis incorporates default group definitions for purchasers, regions, time periods, and comparable merchandise. Purchasers are based on the customer codes reported by Rong Shu. Regions are defined using the reported destination code (*i.e.*, zip code) and are grouped into regions based upon standard definitions published by the U.S. Census Bureau. Time periods are defined by the quarter within the POR based upon the reported date of sale. For purposes of analyzing sales transactions by purchaser, region, and time period, comparable merchandise is defined using the product control number and all characteristics of the U.S. sales, other than purchaser, region, and time period, that the Department uses in making comparisons between EP and NV for the individual dumping margins.

In the first stage of the differential pricing analysis used here, the "Cohen's *d* test" is applied. The Cohen's *d* coefficient is a generally recognized statistical measure of the extent of the difference between the mean (*i.e.*, weighted-average price) of a test group and the mean (*i.e.*, weighted-average price) of a comparison group. First, for comparable merchandise, the Cohen's *d* coefficient is calculated when the test and comparison groups of data for a particular purchaser, region, or time period each have at least two observations, and when the sales quantity for the comparison group accounts for at least five percent of the total sales quantity of the comparable merchandise. Then, the Cohen's *d* coefficient is used to evaluate the extent to which the prices to the particular purchaser, region, or time period differ significantly from the prices of all other sales of comparable merchandise. The extent of these differences can be quantified by one of three fixed thresholds defined by the Cohen's *d* test: small, medium or large (0.2, 0.5 and 0.8, respectively). Of these thresholds, the large threshold provides the strongest indication that there is a significant difference between the mean of the test and comparison groups, while the small threshold provides the weakest indication that such a difference exists. For this analysis, the difference is considered significant, and the sales in the test group are found to pass the Cohen's *d* test, if the calculated Cohen's *d* coefficient is equal to or exceeds the large (*i.e.*, 0.8) threshold.

Next, the "ratio test" assesses the extent of the significant price differences for all sales as measured by the Cohen's *d* test. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test account for 66 percent or more of the value of total sales, then the identified pattern of prices that differ significantly supports the consideration of the application of the average-to-transaction method to all sales as an alternative to the average-to-average method. If the value of sales to purchasers, regions, and time periods that pass the Cohen's *d* test accounts for more than 33 percent and less than 66 percent of the value of total sales, then the results support consideration of the application of an average-to-transaction method to those sales identified as passing the Cohen's *d* test as an alternative to the average-to-average method

and application of the average-to-average method to those sales identified as not passing the Cohen's *d* test. If 33 percent or less of the value of total sales passes the Cohen's *d* test, then the results of the Cohen's *d* test do not support consideration of an alternative to the average-to-average method.

If both tests in the first stage (i.e., the Cohen's *d* test and the ratio test) demonstrate the existence of a pattern of prices that differ significantly such that an alternative comparison method should be considered, then in the second stage of the differential pricing analysis, the Department examines whether using only the average-to-average method can appropriately account for such differences. In considering this question, the Department tests whether using an alternative comparison method, based on the results of the Cohen's *d* and ratio tests described above, yields a meaningful difference in the weighted-average dumping margin as compared to that resulting from the use of the average-to-average method only. If the difference between the two calculations is meaningful, then this demonstrates that the average-to-average method cannot account for differences such as those observed in this analysis and, therefore, an alternative comparison method would be appropriate. A difference in the weighted-average dumping margins is considered meaningful if 1) there is a 25 percent relative change in the weighted-average dumping margins between the average-to-average method and the appropriate alternative method where both rates are above the de minimis threshold, or 2) the resulting weighted-average dumping margins between the average-to-average method and the appropriate alternative method move across the de minimis threshold.

Interested parties may present arguments and justifications in relation to the above-described differential pricing approach used in these preliminary results, including arguments for modifying the group definitions used in this proceeding.

#### Results of the Differential Pricing Analysis

For Rong Shu, based on the results of the differential pricing analysis, the Department preliminarily finds that 56.67 percent of the value of U.S. sales pass the Cohen's *d* test,<sup>13</sup> and confirms the existence of a pattern of prices that differ significantly among purchasers, regions, or time periods. Further, the Department preliminarily determines that there is no meaningful difference between the weighted-average dumping margin calculated using the average-to-average method and the weighted-average dumping margin calculated using an alternative comparison method based on applying the average-to-transaction method to those U.S. sales which passed the Cohen's *d* test and the average-to-average method to those sales which did not pass the Cohen's *d* test.<sup>14</sup> Thus, for these preliminary results, the Department is applying the average-to-average method for all U.S. sales to calculate the weighted-average dumping margin for Rong Shu.

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<sup>13</sup> See Memorandum to the File from David Crespo, Analyst, Office II, AD/CVD Operations, entitled, "Calculations for Rong Shu Industry Corporation for the Preliminary Results," dated concurrently with this memorandum.

<sup>14</sup> Id.

### Product Comparisons

In accordance with section 771(16)(A) of the Act, we considered all products produced by Rong Shu covered by the description in the “Scope of the Order” section, above, and sold in the home market during the POR to be foreign like products for purposes of determining NV for the merchandise sold in the United States. Pursuant to 19 CFR 351.414(f), we compared Rong Shu’s U.S. sales of NWR to its sales of NWR made in the home market within the contemporaneous window period, which extends from three months prior to the month of the first U.S. sale until two months after the month of the last U.S. sale.

Where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, according to section 771(16)(B) of the Act, we compared U.S. sales to sales of the most similar foreign-like product or constructed value (CV). In making the product comparisons, we matched foreign like products based on the physical characteristics to the product sold in the United States. In the order of importance, these physical characteristics are as follows: width, type, number of ends in the warp, number of weft picks, spool capacity, yarn composition, metal percentage, selvedge construction, dye process, surface finish, embellishments, dyed color, pattern type, selvedge contour, product unit packaging, and treatments.

### Date of Sale

Section 351.401(i) of the Department’s regulations states that, normally, the Department 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. However, the regulations permit the Department to use a different date if it better reflects the date on which the exporter or producer establishes the material terms of sale.

Rong Shu reported the earlier of the invoice date or the shipment date as the date of sale for sales made to the home market and the United States.<sup>15</sup> We preliminarily find that this date of sale methodology is appropriate because the quantity and price are fixed no later than the time of shipment. Accordingly, consistent with the Department’s practice,<sup>16</sup> we have accepted it for the purposes of these preliminary results.

### Export Price

For all U.S. sales made by Rong Shu, we used EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold by the producer/exporter outside of the United States directly to the first unaffiliated purchaser in the United States prior to

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<sup>15</sup> See Rong Shu’s January 27, 2016, submission at B-20 and C-20.

<sup>16</sup> See Narrow Woven Ribbons with Woven Selvedge from Taiwan; Preliminary Results of Antidumping Duty Administrative Review; 2013-2014, 80 FR 60627 (October 7, 2015) and accompanying Preliminary Decision Memorandum at 9, unchanged in Narrow Woven Ribbons with Woven Selvedge from Taiwan; Final Results of Antidumping Duty Administrative Review; 2013-2014, 81 FR 22578 (April 18, 2016).

importation and constructed export price (CEP) methodology was not otherwise warranted based on the facts of record.

We calculated EP based on the packed prices to the first unaffiliated purchaser in the United States. Where appropriate, we made adjustments to the starting price for billing adjustments and discounts. We also made deductions from the starting price for foreign inland freight, foreign brokerage and handling expenses, and foreign port charges, where appropriate, in accordance with section 772(c)(2)(A) of the Act. Although Rong Shu reported foreign port charges as a direct selling expense, we reclassified them as movement expenses because they relate to the shipment of the merchandise.

### Normal Value

#### A. *Home Market Viability*

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of Rong Shu's home market sales of the foreign like product to the volume of its U.S. sales of subject merchandise, in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404. Based on this comparison, we preliminarily determined that, pursuant to 19 CFR 351.404(b), the aggregate volume of home market sales of the foreign like product for Rong Shu was sufficient to permit a proper comparison with U.S. sales of the subject merchandise.

#### B. *Level of Trade*

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the U.S. sales. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent).<sup>17</sup> Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing.<sup>18</sup> In order to determine whether the comparison market sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the chain of distribution), including selling functions and class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices),<sup>19</sup> we consider the

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<sup>17</sup> See 19 CFR 351.412(c)(2).

<sup>18</sup> *Id.*; see also Certain Orange Juice From Brazil: Final Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Antidumping Duty Order in Part, 75 FR 50999 (August 18, 2010), and accompanying Issues and Decision Memorandum at Comment 7 (OJ from Brazil).

<sup>19</sup> Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling, general and administrative (SG&A) expenses, and profit for CV, where possible. See 19 CFR 351.412(c)(1).

starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act.<sup>20</sup>

When the Department is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it possible, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment is possible), the Department will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act.<sup>21</sup>

In this administrative review, we obtained information from Rong Shu regarding the marketing stages involved in making the reported home market and U.S. sales. In the U.S. market, Rong Shu reported sales to distributors/retailers through one channel of distribution (*i.e.*, direct sales to unaffiliated U.S. customers).<sup>22</sup> We examined the selling activities performed for these sales and found that Rong Shu performed the following selling functions: packing, order/input processing, market research, color trend advice, sampling, idea development, and providing freight and delivery.<sup>23</sup> Selling activities can be generally grouped into four selling function categories for analysis: 1) sales and marketing; 2) freight and delivery services; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Accordingly, based on the selling function categories, we find that Rong Shu performed sales and marketing and freight and delivery services for its EP sales. Because all sales in the United States are made through a single distribution channel and the selling activities to Rong Shu's customers did not vary within this channel, we preliminarily determine that there is one LOT in the U.S. market.

With respect to the home market, Rong Shu also reported sales to distributors/retailers through one channel of distribution (*i.e.*, direct sales to unaffiliated home market customers).<sup>24</sup> We examined the selling activities performed for these sales and found that Rong Shu performed the following selling functions: packing, order/input processing, market research, color trend advice, idea development, and providing freight and delivery.<sup>25</sup> Therefore, based on the four selling function categories listed above, we find that Rong Shu performed sales and marketing and freight and delivery for its home market sales. Because all sales in the home market are made through a single distribution channel and the selling activities to Rong Shu's customers did not vary within this channel, we preliminarily determine that there is one LOT in the home market.

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<sup>20</sup> See Micron Tech., Inc. v. United States, 243 F.3d 1301, 1314-16 (Fed. Cir. 2001).

<sup>21</sup> See, *e.g.*, OJ from Brazil at Comment 7.

<sup>22</sup> See Rong Shu's January 27, 2016, response at pages C-18 – C-19.

<sup>23</sup> See Rong Shu's January 14, 2016, response at pages A-15 – A-16, and Exhibit A-6.

<sup>24</sup> See Rong Shu's January 27, 2016, response at pages B-18 – B-19.

<sup>25</sup> See Rong Shu's January 14, 2016, response at pages A-15 – A-16, and Exhibit A-6.

Finally, we compared the U.S. LOT to the home market LOT and found that the selling functions performed for U.S. and home market customers are virtually identical. Therefore, we determine that sales to the U.S. and home markets during the POR were made at the same LOT and, as a result, no LOT adjustment is warranted.

### C. *Cost of Production Analysis*

On June 29, 2015, the President of the United States signed into law the Trade Preferences Extension Act of 2015 (TPEA), Public Law No. 114-27, which made numerous amendments to United States the AD and countervailing duty (CVD) law, including amendments to section 773(b)(2)(A) of the Act.<sup>26</sup> The 2015 law does not specify dates of application for those amendments. On August 6, 2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments to section 771(7) of the Act, which relate to determinations of material injury by the International Trade Commission (ITC).<sup>27</sup> Section 773(b)(2)(A)(ii) of the Act controls all determinations in which the complete initial questionnaire has not been issued as of August 6, 2015. It requires the Department to request CV and COP information from respondent companies in all antidumping proceedings.<sup>28</sup> Because these amendments apply to this review, the Department requested this information from Rong Shu.<sup>29</sup> Rong Shu submitted a timely response.<sup>30</sup>

#### 1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated Rong Shu's COPs based on the sum of materials and conversion for the foreign like product, plus amounts for general and administrative expenses and interest expenses (see "Test of Comparison Market Sales Prices" section, below, for treatment of home market selling expenses). We examined the reported cost data and determined that our quarterly cost methodology is not warranted. Therefore, we followed our normal methodology of calculating an annual weighted-average cost.

We relied on the weighted-average cost database submitted on August 25, 2016, in calculating the COP for Rong Shu. We made no changes to Rong Shu's reported costs.

#### 2. Test of Comparison Market Sales Prices

On a product-specific basis, pursuant to section 773(a)(1)(B)(i) of the Act, we compared the adjusted weighted-average COP to the home market sales prices of the foreign like product in order to determine whether the sale prices were below the COP. For purposes of this comparison, we used the COP exclusive of selling and packing expenses. The prices were

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<sup>26</sup> See TPEA, Pub. L. No. 114-27, 129 Stat. 362 (2015).

<sup>27</sup> See Dates of Application of Amendments to the Antidumping and Countervailing Duty Laws Made by the Trade Preferences Extension Act of 2015, 80 FR 46793 (August 6, 2015) (Applicability Notice).

<sup>28</sup> Id., at 46794-95.

<sup>29</sup> See the Department's questionnaire to Rong Shu, dated December 10, 2015.

<sup>30</sup> See Rong Shu's January 27, 2016, Section D response.

exclusive of any applicable movement charges, discounts and rebates, billing adjustments, direct and indirect selling expenses, and packing expenses.

### 3. Results of the COP Test

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether: 1) within an extended period of time, such sales were made in substantial quantities; and 2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. In accordance with sections 773(b)(2)(B) and (C) of the Act, where less than 20 percent of a respondent's home market sales of a given product are at prices less than the COP, we disregard none of the below-cost sales of that product because we determine that in such instances the below-cost sales were not made within an extended period of time and in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we disregard the below-cost sales when: 1) the sales were made within an extended period of time in "substantial quantities," in accordance with sections 773(b)(2)(B) and (C) of the Act; and 2) based on our comparison of prices to the weighted-average COPs for the POR, the sales were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Because we are applying our standard annual-average cost test in these preliminary results, we have also applied our standard cost recovery test with no adjustments.

We preliminarily found that Rong Shu did not make any below-cost sales during the POR. Therefore, we did not disregard any of Rong Shu's home market sales, and used all sales as the basis for determining NV.

#### D. *Calculation of Normal Value Based on Comparison Market Prices*

We based NV for Rong Shu on the reported ex-factory prices to unaffiliated customers in the home market. We made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for direct selling expenses (including imputed credit expenses).

We added U.S. packing costs and deducted home market packing costs, in accordance with sections 773(a)(6)(A) and (B)(i) of the Act. When comparing U.S. sales with home market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise.<sup>31</sup>

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<sup>31</sup> See 19 CFR 351.411(b).

E. *Calculation of Normal Value Based on Constructed Value*

Section 773(a)(4) of the Act provides that, where NV cannot be based on comparison market sales, NV may be based on CV. Accordingly, for those NWR models for which we could not determine the NV based on home market sales, we based NV on CV.

Section 773(e) of the Act provides that CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for SG&A expenses, profit, and U.S. packing costs. We based SG&A and profit on the actual amounts incurred and realized by Rong Shu in connection with the production and sale of the foreign like product, in the ordinary course of trade, for consumption in the home market, in accordance with section 773(e)(2)(A) of the Act.

Currency Conversion

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

Use of Facts Otherwise Available

In accordance with sections 776(a) and (b) of the Act, we determine that the use of adverse facts available (AFA) is appropriate for these preliminary results with respect to A-Madeus. For the reasons discussed below, we are preliminarily assigning a dumping margin of 137.20 percent to this respondent.

Section 776(a) of the Act provides that, subject to section 782(d) of the Act, the Department shall apply “facts otherwise available” 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.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party an opportunity to remedy or explain the deficiency. If the party fails to remedy or satisfactorily explain the deficiency within the applicable time limits, subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate.

On June 29, 2015, the President of the United States signed into law the TPEA, which made numerous amendments to the AD and CVD law, including amendments to sections 776(b) and 776(c) of the Act and the addition of section 776(d) of the Act.<sup>32</sup> The amendments to the Act are

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<sup>32</sup> See TPEA. The 2015 law does not specify dates of application for those amendments. On August 6,

applicable to all determinations made on or after August 6, 2015, and, therefore, apply to this administrative review.<sup>33</sup>

Section 776(b) of the Act provides that the Department may use an adverse inference in applying the facts otherwise available when a party fails to cooperate by not acting to the best of its ability to comply with a request for information. In doing so, and under the TPEA, the Department is not required to determine, or make any adjustments to, a weighted-average dumping margin based on any assumptions about information an interested party would have provided if the interested party had complied with the request for information.<sup>34</sup> Further, section 776(b)(2) states that an adverse inference may include reliance on information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or other information placed on the record.<sup>35</sup>

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal.<sup>36</sup> Secondary information is defined as information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 of the Act concerning the subject merchandise.<sup>37</sup> Further, and under the TPEA, the Department is not required to corroborate any dumping margin applied in a separate segment of the same proceeding.<sup>38</sup>

Finally, under the new section 776(d) of the Act, the Department may use any dumping margin from any segment of a proceeding when applying an adverse inference, including the highest of such margins.<sup>39</sup> The TPEA also makes clear that when selecting an AFA margin, the Department is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated; neither is the Department required to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.<sup>40</sup>

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2015, the Department published an interpretative rule, in which it announced the applicability dates for each amendment to the Act, except for amendments contained to section 771(7) of the Act, which relate to determinations of material injury by the ITC. See Applicability Notice.

<sup>33</sup> See Applicability Notice, 80 FR at 46794-95. The 2015 amendments may be found at <https://www.congress.gov/bill/114th-congress/house-bill/1295/text/pl>.

<sup>34</sup> See section 776(b)(1)(B) of the Act; TPEA, section 502(1)(B).

<sup>35</sup> See also 19 CFR 351.308(c).

<sup>36</sup> See also 19 CFR 351.308(d).

<sup>37</sup> See Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, attached to H.R. No. 103-316, vol. 1 at 870 (1994), reprinted in 1994 U.S.C.C.A.N. 37773, 4163.

<sup>38</sup> See section 776(c)(2) of the Act; TPEA, section 502(2).

<sup>39</sup> See section 776(d)(1)-(2) of the Act; TPEA, section 502(3).

<sup>40</sup> See section 776(d)(3) of the Act; TPEA, section 502(3).

*A. Use of Facts Otherwise Available*

As noted in the “Background” section, above, A-Madeus did not respond to the Department’s questionnaire in this administrative review.<sup>41</sup> As a result, A-Madeus did not provide the requested information necessary for the Department to calculate an AD margin for it in this review. Therefore, pursuant to section 776(a) of the Act, the Department has based A-Madeus’ cash deposit rate in these preliminary results on facts otherwise available.

Section 776(a)(1) of the Act states that the Department “shall” use the facts otherwise available if necessary information is not available on the record. Further, section 776(a)(2) of the Act provides that the Department “shall” use facts available if it determines that an interested party withholds information requested by the Department, fails to provide such information by the deadlines for submission of the information or in the form and manner requested by the Department, significantly impeded a proceeding, or provides such information but the information cannot be verified. In this case, A-Madeus withheld requested information, failed to provide the requested information by the deadline, and, thus, significantly impeded this proceeding. Accordingly, the use of facts otherwise available is warranted in determining a dumping margin for A-Madeus.

*B. Application of Facts Available with an Adverse Inference*

Section 776(b) of the Act provides that if the Department finds an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information, the Department may use an inference adverse to the interests of that party in selecting the facts otherwise available.<sup>42</sup> Section 776(b) also provides that the Department is not required to determine, or make any adjustments to, the dumping margin based on any assumptions about information the interested party would have provided if the interested party had complied with the request for information. In addition, the SAA provides that the Department may employ 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.”<sup>43</sup>

Although we provided A-Madeus with notice informing it of the consequences of its failure to respond within the established deadline to our questionnaire,<sup>44</sup> A-Madeus declined to respond at

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<sup>41</sup> See A-Madeus Shipping Confirmation.

<sup>42</sup> See, e.g., Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India, 70 FR 54023, 54025-26 (September 13, 2005); Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod From Brazil, 67 FR 55792, 55794-96 (August 30, 2002); see also Notice of Final Results of Antidumping Duty Administrative Review, and Final Determination to Revoke the Order In Part: Individually Quick Frozen Red Raspberries from Chile, 72 FR 70295, 70297 (December 11, 2007).

<sup>43</sup> See SAA at 870; see also Certain Polyester Staple Fiber from Korea: Final Results of the 2005-2006 Antidumping Duty Administrative Review, 72 FR 69663 (December 10, 2007) (PSF from Korea).

<sup>44</sup> See the Department’s December 10, 2015, questionnaire to A-Madeus at page three of the cover letter which states, “{i}f the Department does not receive either the requested information or a written extension request before 5 p.m. ET on the established deadline, we may conclude that your company has decided not to cooperate in this proceeding... {which} may result in the application of partial or total facts available, pursuant to section 776(a)

all to the questionnaire and failed to participate in this review.<sup>45</sup> We have, therefore, preliminarily determined that A-Madeus failed to cooperate to the best of its ability in providing the necessary information for the Department to conduct an administrative review.<sup>46</sup> Accordingly, we preliminarily find that the application of facts available with an adverse inference, pursuant to section 776(b) of the Act, is warranted.<sup>47</sup>

*C. Selection and Corroboration of Adverse Facts Available Rate*

Where the Department applies AFA because a respondent fails to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b)(2) of the Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record.<sup>48</sup> In selecting a rate based on AFA, the SAA explains that the Department may employ 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.”<sup>49</sup> Furthermore, affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.<sup>50</sup> Under section 776(d)(3), when selecting an AFA margin, the Department is not required to estimate what the dumping margin would have been if the interested party failing to cooperate had cooperated or to demonstrate that the dumping margin reflects an “alleged commercial reality” of the interested party.<sup>51</sup>

As AFA, we preliminarily assign A-Madeus the dumping margin of 137.20 percent, which is the AFA rate that we have previously assigned to non-cooperative respondents in prior segments of this proceeding. Specifically, the Department assigned Hen Hao Trading Co. Ltd. a.k.a. Taiwan Tulip Ribbons and Braids Co. Ltd., Intercontinental Skyline, Pacific Imports, and Hubscher Ribbon Corp., Ltd. d/b/a Hubschercorp an antidumping rate of 137.20 percent in prior

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of the Act, which may include adverse inferences, pursuant to section 776(b) of the Act.”

<sup>45</sup> See A-Madeus Shipping Confirmation.

<sup>46</sup> See Hardwood and Decorative Plywood from the People’s Republic of China: Final Affirmative Countervailing Duty Determination; 2011, 78 FR 58283 (September 23, 2013) and accompanying Issues and Decision Memorandum at 5-6, where the Department applied AFA to the China-wide entity because several respondents that were a part of the China-wide entity did not respond to the Department’s quantity and value questionnaire.

<sup>47</sup> See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products From Japan, 65 FR 42985, 42986 (July 12, 2000) (where the Department applied total AFA because the respondent failed to respond to the questionnaire); see also Nippon Steel Corp. v. United States, 337 F.3d 1373, 1382-83 (Fed. Cir. 2003).

<sup>48</sup> See 19 CFR 351.308(c); SAA at 868-870.

<sup>49</sup> See SAA at 870; see also PSF from Korea, 72 FR at 69664; Steel Threaded Rod From Thailand: Preliminary Determination of Sales at Less Than Fair Value and Affirmative Preliminary Determination of Critical Circumstances, 78 FR 79670 (December 31, 2013), and accompanying Preliminary Decision Memorandum at 4, unchanged in Steel Threaded Rod From Thailand: Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances, 79 FR 14476 (March 14, 2014).

<sup>50</sup> See Antidumping Duties: Countervailing Duties: Final rule, 62 FR at 27340 (May 19, 1997).

<sup>51</sup> See section 776(d)(3) of the Act; TPEA, section 502(3).

administrative reviews of this case.<sup>52</sup> This rate achieves the purpose of applying an adverse inference, *i.e.*, it is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.<sup>53</sup>

When a respondent is not cooperative, such as A-Madeus in this review, the Department has the discretion to presume that the highest prior dumping margin is the most probative evidence of the current weighted-average dumping margin.<sup>54</sup> If this were not the case, the party would have produced current information to demonstrate that its dumping margin is lower.<sup>55</sup> Further, by using the highest prior dumping margin, we can be assured that the exporter will not benefit from refusing to provide information.

Section 776(c)(1) of the Act requires that, except as provided in paragraph (2), when the Department relies on secondary information, it shall, to the extent practicable, corroborate secondary information from independent sources that are reasonable at its disposal. Section 776(c)(2) states that the Department shall not be required to corroborate any dumping margin applied in a separate segment of the same proceeding. Because we have obtained a dumping margin from a prior segment of the same proceeding, it is unnecessary to corroborate this rate pursuant to section 776(c)(2) of the Act.

Accordingly, for the foregoing reasons, we preliminarily assign A-Madeus an AFA rate of 137.20 percent.

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<sup>52</sup> See Narrow Woven Ribbons With Woven Selvedge From Taiwan: Final Results of Antidumping Duty Administrative Review; 2012-2013, 80 FR 19635 (April 13, 2015); Narrow Woven Ribbons With Woven Selvedge From Taiwan: Final Results of Antidumping Duty Administrative Review; 2011-2012, 78 FR 50377 (August 19, 2013); and Narrow Woven Ribbons With Woven Selvedge From Taiwan: Final Results of Antidumping Duty Administrative Review; 2010-2011, 77 FR 72825 (December 6, 2012).

<sup>53</sup> See Gallant Ocean (Thailand) Co. v. United States, 602 F.3d 1319 (Fed. Cir. 2010).

<sup>54</sup> See Ta Chen Stainless Steel Pipe, Inc. v. United States, 298 F.3d 1330, 1339 (Fed. Cir. 2002) (citing Rhone Poulenc, Inc. v. United States, 899 F.2d 1885, 1190 (Fed. Cir. 1990) (Rhone Poulenc)).

<sup>55</sup> See Rhone Poulenc, 899 F.2d at 1190.

**RECOMMENDATION**

Based on our analysis, we recommend adopting the above positions in these preliminary results. If this recommendation is accepted, we will publish the preliminary results of the review and the preliminary dumping margins for Rong Shu and A-Madeus in the Federal Register.

✓  
\_\_\_\_\_  
Agree

\_\_\_\_\_  
Disagree

*Ronald K. Lorentzen*  
\_\_\_\_\_  
Ronald K. Lorentzen  
Acting Assistant Secretary  
for Enforcement and Compliance

*October 3, 2016*  
\_\_\_\_\_  
(Date)