

February 4, 2008

MEMORANDUM TO: David M. Spooner  
Assistant Secretary  
for Import Administration

FROM: Stephen J. Claeys  
Deputy Assistant Secretary  
for Import Administration

SUBJECT: Issues and Decision Memorandum for the Administrative Review  
of the Antidumping Duty Order on Polyethylene Terephthalate  
Film, Sheet and Strip (PET Film) from India

I. Summary

We have analyzed the comments in the case brief submitted by MTZ Polyfilms, Ltd. (MTZ), respondent interested party in the administrative review of the antidumping duty order on PET Film from India. As a result of our analysis, we have made the appropriate changes in the margin calculation. We recommend that you approve the positions described in the Recommendation section of this memorandum.

II. Background

On August 7, 2007, the Department of Commerce (the Department) published in the Federal Register the preliminary results of the administrative review of the antidumping duty order on PET Film from India. See Polyethylene Terephthalate Film, Sheet and Strip From India: Preliminary Results of Antidumping Duty Administrative Review; 72 FR 44086 (August 7, 2007) (Preliminary Results).

The period of review (POR) is July 1, 2005 through June 30, 2006. The review period covers one respondent, MTZ. We invited interested parties to submit comments to the Preliminary Results. In response, on September 6, 2007, MTZ timely filed a case brief to the Department. Petitioners did not submit a case brief. We did not receive rebuttal briefs from any other interested parties.

MTZ is currently participating in the administrative review of the countervailing duty (CVD) order on PET Film from India for POR January 1, 2005 through December 31, 2005, in conjunction with this proceeding.

### III. Issue:

1. Adjustment of Export Price (EP) by the countervailing duties imposed on PET Film.

### IV. Discussion of Interested Party Comments

Comment 1: Whether the Department should have adjusted EP by the amount of countervailing duties imposed to offset an export subsidy.

MTZ argues that in the Preliminary Results of this administrative review, the Department did not account for the amount of the countervailing duty imposed on PET Film from India, in accordance with section 772(c)(1)(C) of the Tariff Act of 1930, as amended, (the Act).<sup>1</sup> MTZ maintains that for the final results of the 2005-2006 antidumping duty review, the Department should modify the calculation of MTZ's EP by the amount of the CVD rate stemming from export subsidies, as determined in the final determination of the investigation. See Notice of Final Affirmative Countervailing Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) From India, 67 FR 34905 (May 16, 2002). MTZ points out that it is currently subject to a countervailing duty rate of 21.59 percent, the all others rate of the investigation, and that it is also participating in the 2005 CVD review where the Department preliminarily determined a CVD rate of 33.72 percent. See Polyethylene Terephthalate Film, Sheet, and Strip From India: Preliminary Results and Rescission, in Part, of Countervailing Duty Administrative Review; 72 FR 43607 (August 6, 2007). MTZ claims the increase to offset an export subsidy in the EP would result in a weight-average dumping margin of zero for MTZ in the 2005-2006 antidumping duty review.

Department's Position: We will increase U.S. price for countervailing duties imposed attributable to export subsidies. Section 772(c)(1)(C) of the Act unconditionally states that U.S. price "*shall* be increased by the amount of any countervailing duty imposed on the subject merchandise ... to offset an export subsidy" (emphasis added). See Certain Hot-Rolled Carbon Steel Flat Products From India: Final Results of Antidumping Duty Administrative Review, 71 FR 40694, July 18, 2006; see also Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet and Strip From India, 67 FR 34899 (May 16, 2002), and accompanying Issues and Decision Memorandum at comment 1.

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<sup>1</sup> Section 772(c)(1)(C) of the Act requires an addition to the starting price for EP or CEP for any countervailing duties imposed on the merchandise to offset an export subsidy. Where there is an ongoing countervailing duty investigation but no outstanding countervailing duty order, instead of adding the countervailing duty amount for export subsidies to the EP or CEP, we adjust the estimated weighted-average dumping margin calculated for Customs bonding (for investigations only) or cash deposit purposes to reflect the impact of these duties on the dumping margin calculation. Where actual assessment of countervailing duties are being made under an outstanding order, the actual amount of duties would be added directly to the EP or CEP in performing the margin calculation.

Here, MTZ is subject to both a countervailing duty and an antidumping duty order. See Notice of Final Affirmative Countervailing Duty Determination: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) From India, 67 FR 34905 (May 16, 2002), and Notice of Amended Final Antidumping Duty Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Polyethylene Terephthalate Film, Sheet, and Strip from India, 67 FR 44175 (July 1, 2002). Therefore, we will increase U.S. price for duties attributable to export subsidies.

#### V. Recommendation

Based on our analysis of the comments received, we recommend adopting the positions described above. If these recommendations are accepted, we will publish the final results and the final weighted-average dumping margins in the Federal Register.

Agree \_\_\_\_\_

Disagree \_\_\_\_\_

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David M. Spooner  
Assistant Secretary  
for Import Administration

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(Date)