



A-570-924
Administrative Review
11/01/2013 - 10/31/2014
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July 30, 2015

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

FROM: Christian Marsh 
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

SUBJECT: Decision Memorandum for Preliminary Results of 2013-2014
Antidumping Duty Administrative Review: Polyethylene
Terephthalate Film, Sheet, and Strip from the People's Republic of
China

Summary

In response to requests from interested parties, the Department of Commerce ("Department") is conducting an administrative review of the antidumping duty ("AD") order on polyethylene terephthalate film, sheet, and strip ("PET film") from the People's Republic of China ("PRC") for the period of review ("POR") November 1, 2013, through October 31, 2014. This review covers four companies.¹ The Department is rescinding its review with respect to Fuwei Films, Dongfang, and Wanhua. Green Packing did not respond to the Department's AD questionnaire. Thus, the Department preliminarily finds Green Packing is not eligible for a separate rate and is part of the PRC-wide entity.

Background

On November 10, 2008, the Department published in the *Federal Register* the AD order on PET film from the PRC.² On November 3, 2014, the Department published a notice of opportunity to request an administrative review of the AD order on PET film from the PRC.³ On December 1,

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 79 FR 76956 (December 23, 2014) ("Initiation Notice"). The companies for which a review was requested are: Fuwei Films (Shandong) Co., Ltd. ("Fuwei Films"), Shaoxing Xiangyu Green Packing Co., Ltd. ("Green Packing"), Sichuan Dongfang Insulating Material Co., Ltd. ("Dongfang"), and Tianjin Wanhua Co., Ltd. ("Wanhua").

² See *Polyethylene Terephthalate Film, Sheet, and Strip From Brazil, the People's Republic of China and the United Arab Emirates: Antidumping Duty Orders and Amended Final Determination of Sales at Less Than Fair Value for the United Arab Emirates*, 73 FR 66595 (November 10, 2008) ("Final Determination").

³ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 79 FR 65176 (November 3, 2014).



2014, Green Packing requested a review of subject merchandise exported by itself⁴ and Mitsubishi Polyester Films, Inc. and SKC, Inc. (collectively “Petitioners”) requested a review of subject merchandise exported by Dongfang, Fuwei Films, Green Packing, and Wanhua.⁵ On December 23, 2014, the Department published the notice of initiation of the instant review of all four companies.⁶

On January 9, 2015, the Department placed on the record CBP import data, related to the companies under review, and invited parties to comment on the data.⁷ On January 29, 2015, the Department sent the AD questionnaire to Green Packing and Wanhua.⁸ On February 15, 2015, Green Packing submitted a statement of non-participation in the instant administrative review.⁹ On February 17, 2015, Dongfang and Fuwei Films submitted letters certifying no exports or sales of subject merchandise to the United States during the POR.¹⁰ Although Green Packing received the Department’s AD questionnaire,¹¹ it neither responded to any section of the questionnaire, nor did it provide a separate rate application, nor did it provide a statement of no-shipments.

Partial Rescission

As stated above, Green Packing requested administrative review of subject merchandise exported by itself and Petitioners requested an administrative review of subject merchandise exported by Dongfang, Fuwei Films, Green Packing, and Wanhua. Subsequently, on March 23, 2015, Petitioners timely withdrew their request for an administrative review of each company.¹² No other parties requested a review with respect to Dongfang, Fuwei Films, and Wanhua. Therefore, the Department, pursuant to 19 CFR 351.213 (d)(1), is rescinding this administrative review with respect to each of those three companies.

Additionally, although Petitioners withdrew its request for an administrative review of Green Packing, Green Packing requested administrative review of itself. On March 24, 2015, past

⁴ See Letter from Green Packing to the Secretary of Commerce “Polyethylene Terephthalate (PET) Film from China,” dated December 1, 2014.

⁵ See Letter from Petitioners to the Secretary of Commerce “Polyethylene Terephthalate (PET) Film, Sheet, and Strip from the People’s Republic of China: Request for Antidumping Duty Administrative Review,” dated December 1, 2014.

⁶ See *Initiation Notice*.

⁷ See Letter from Howard Smith, Program Manager, AD/CVD Operations to All Interested Parties dated January 9, 2015.

⁸ See Letter from Howard Smith, Program Manager, Office IV, AD/CVD Operations to Green Packing dated January 29, 2015; see also letter from Howard Smith, Program Manager, Office IV, AD/CVD Operations to Wanhua dated January 29, 2015.

⁹ See Letter from Green Packing to the Secretary of Commerce “Polyethylene Terephthalate (PET) Film from China,” dated February 17, 2015 (submitted February 15, 2015) (“Green Packing Non-Participation Letter”).

¹⁰ See Letter from Dongfang to the Secretary of Commerce “Polyethylene Terephthalate (PET) Film from the People’s Republic of China; A-570-924; No Shipment Certification,” dated February 17, 2015; see also letter from Fuwei Films to the Secretary of Commerce “Polyethylene Terephthalate (PET) Film from the People’s Republic of China; A-570-924; No Shipment Certification,” dated February 17, 2015.

¹¹ See Green Packing Non-Participation Letter.

¹² See Letter from Petitioners to the Secretary of Commerce “Polyethylene Terephthalate (PET) Film, Sheet, and Strip from the People’s Republic of China: Withdrawal of Request for Antidumping Duty Administrative Review,” dated March 23, 2015.

the deadline to withdraw its request for administrative review, Green Packing submitted a letter to the Department claiming that the Non-Participation Letter was a request to withdraw the administrative review of Green Packing's exports of subject merchandise during the POR.¹³ The Department disagrees with Green Packing's contention that the Non-Participation Letter constitutes a withdrawal of the request for an administrative review. After reviewing the Non-Participation Letter, the Department finds that Green Packing made no attempt to withdraw its administrative review request in the letter. In fact, in the Non-Participation Letter, Green Packing states that "...it does not intend to answer the questionnaire in this review, issued January 29, 2015, where the first part (Section A) is due February 19, 2015," and makes no mention of its administrative review request.¹⁴ Thus, Green Packing is still subject to administrative review of its exports of subject merchandise during the POR.

Scope of the Order

The products covered by the order are all gauges of raw, pre-treated, or primed PET film, whether extruded or co-extruded. Excluded are metalized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer more than 0.00001 inches thick. Also excluded is roller transport cleaning film which has at least one of its surfaces modified by application of 0.5 micrometers of SBR latex. Tracing and drafting film is also excluded. PET film is classifiable under subheading 3920.62.00.90 of the Harmonized Tariff Schedule of the United States ("HTSUS"). While HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

DISCUSSION OF THE METHODOLOGY

Non-Market Economy Country Status

The Department considers the PRC to be a non-market economy ("NME") country.¹⁵ In accordance with section 771(18)(C)(i) of the Tariff Act of 1930, as amended ("the Act"), any determination that a country is an NME country shall remain in effect until revoked by the administering authority.¹⁶ None of the parties to this proceeding contested NME treatment for the PRC. Therefore, for the preliminary results of this review, we treated the PRC as an NME country and applied our current NME methodology in accordance with section 773(c) of the Act.

¹³ See Letter from Green Packing to the Secretary of Commerce "Polyethylene Terephthalate (PET) Film from China," dated March 24, 2015.

¹⁴ See Non-Participation Letter at 1.

¹⁵ See, e.g., *Fresh Garlic From the People's Republic of China: Preliminary Results of the 2009- 2010 Antidumping Duty Administrative Review*, 76 FR 76375 (December 7, 2011), unchanged in *Fresh Garlic from the People's Republic of China: Final Results of the 2009-2010 Administrative Review of the Antidumping Duty Order*, 77 FR 34346 (June 11, 2012).

¹⁶ See *Brake Rotors From the People's Republic of China: Preliminary Results and Partial Rescission of the 2004-2005 Administrative Review and Preliminary Notice of Intent To Rescind the 2004-2005 New Shipper Review*, 71 FR 26736 (May 8, 2006), unchanged in *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the 2004-2005 Administrative Review and Notice of Rescission of 2004-2005 New Shipper Review*, 71 FR 66304 (November 14, 2006).

PRC-wide Entity

In the *Initiation Notice*, we informed parties of the opportunity to request a separate rate.¹⁷ In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the NME country are subject to government control and, thus, should be assigned a single weighted-average dumping margin. It is the Department's policy to assign all exporters of merchandise subject to an administrative review involving an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Companies that wanted to be considered for a separate rate in this review were required to timely file a separate-rate application or a separate-rate certification to demonstrate their eligibility for a separate rate. Separate-rate applications and separate-rate certifications were due to the Department within 60 calendar days of the publication of the *Initiation Notice*.

As noted in the background section above, although Green Packing received the Department's AD questionnaire, it did not respond to any section of the questionnaire, nor did it provide either a separate rate certification or statement of no-shipments. Since Green Packing did not respond to the questionnaire and did not provide separate rate information, it has not established its eligibility for separate rate status. Based on the above analysis, and consistent with the Department's current practice regarding conditional review of the PRC-wide entity,¹⁸ the Department preliminarily determines that Green Packing is not eligible for a separate rate and is part of the PRC-wide entity. Under this practice, the PRC-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the PRC-wide entity, the entity is not under review and the entity's rate is not subject to change. Therefore, if our determination is unchanged in the final results, Green Packing's entries will be liquidated at the rate previously established for the PRC-wide entity, which is 76.72 percent.¹⁹

¹⁷ See *Initiation Notice*, 79 FR at 76956-57.

¹⁸ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963, 65970 (November 4, 2013).

¹⁹ See *Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 55039, 55041 (September 24, 2008).

RECOMMENDATION

We recommend applying the above methodology for the preliminary results of review.

✓
Agree Disagree

Ronald K Lorentzen

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement & Compliance

July 30, 2015
(Date)