

assessment rate and receive a refund of any excess deposits. *See Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom: Final Results of Changed-Circumstances Antidumping and Countervailing Duty Administrative Reviews*, 64 FR 66880 (November 30, 1999). As a result, if these preliminary results are adopted in our final results of this changed circumstances review, we will instruct the Customs Service to suspend shipments of subject merchandise made by Solvay Solexis at Ausimont's cash deposit rate (*i.e.*, 12.08 percent). Until that time, the cash deposit rate assigned to Solvay Solexis' entries is the rate in effect at the time of entry (*i.e.*, the "all others" rate).

#### Public Comment

Any interested party may request a hearing within 30 days of publication of this notice. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication of this notice, or the first working day thereafter. Interested parties may submit case briefs and/or written comments not later than 30 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, which must be limited to issues raised in such briefs or comments, may be filed not later than 37 days after the date of publication of this notice. Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities.

Consistent with section 351.216(e) of the Department's regulations, we will issue the final results of this changed circumstances review no later than 270 days after the date on which this review was initiated, or within 45 days if all parties agree to our preliminary finding.

We are issuing and publishing this finding and notice in accordance with sections 751(b)(1) and 777(i)(1) of the Act and section 351.216 of the Department's regulations.

March 13, 2003.

#### Joseph Spetrini,

Acting Assistant Secretary for Import Administration.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-879]

#### Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Polyvinyl Alcohol From the People's Republic of China

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

**ACTION:** Notice of preliminary determination of sales at less than fair value.

**SUMMARY:** We preliminarily determine that polyvinyl alcohol from the People's Republic of China is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended.

Interested parties are invited to comment on this preliminary determination. We will make our final determination not later than 135 days after the date of publication of this preliminary determination.

**EFFECTIVE DATE:** March 20, 2003.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Eastwood or Alice Gibbons, Office of AD/CVD Enforcement, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3874 or (202) 482-0498, respectively.

#### Preliminary Determination

We preliminarily determine that polyvinyl alcohol (PVA) from the People's Republic of China (PRC) is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

#### Case History

Since the initiation of this investigation (*Initiation of Antidumping Duty Investigations: Polyvinyl Alcohol from Germany, Japan, the People's Republic of China, the Republic of Korea, and Singapore*, 67 FR 61591 (Oct. 1, 2002)) (*Initiation Notice*), the following events have occurred:

On October 21, 2002, the United States International Trade Commission (ITC) preliminarily determined that there is reasonable indication that imports of PVA from the PRC are materially injuring the United States

industry. *See* ITC Investigation Nos. 731-TA-1014-1018 (Publication No. 3553 *Polyvinyl Alcohol from Germany, Japan, the People's Republic of China, the Republic of Korea, and Singapore*, 67 FR 65597 (Oct. 25, 2002)).

Also on October 21, 2002, we issued an antidumping questionnaire to the Chinese Ministry of Foreign Trade and Economic Cooperation (MOFTEC) with a letter requesting that it forward the questionnaire to Chinese producers/exporters accounting for all known exports of subject merchandise from the PRC during the period of investigation (POI). The Department also sent courtesy copies of the antidumping questionnaire to the China Chamber of Commerce of Metals, Minerals, and Chemicals Importers and Exporters, to all companies identified in U.S. customs data as exporters of the subject merchandise during the POI with shipments in commercial quantities, and any additional companies identified in the petition as exporters of PVA. These companies included: B.V. Rebes, Chang Chun Plastics Co., Ltd. (Chang Chun),<sup>1</sup> Sichuan Mianyang International Trade Co., Ltd., Sinopec Maoming Refining & Chemical Co., Ltd., Sinopec Sichuan Vinylon Works (SVW), and Sichuan Weinilun Chang. For further discussion, see the November 7, 2002, memorandum from Alice Gibbons to the File entitled "Antidumping Duty Investigation of Polyvinyl Alcohol from the People's Republic of China—Selection of Respondents." The letters sent to MOFTEC and individual exporters provided deadlines for responses to the different sections of the questionnaire.

On October 28, 2002, B.V. Rebes informed us that it is merely a provider of logistics services and, therefore, it did not intend to respond to the Department's questionnaire in this investigation. For further discussion, see the October 28, 2002, memorandum from Elizabeth Eastwood to the File entitled "Response from B.V. Rebes to the Questionnaire in the Antidumping Duty Investigation of Polyvinyl Alcohol from the People's Republic of China." On November 4, 2002, Chang Chun informed us that its records did not reflect any exports of PRC-produced PVA to the United States during the POI. Chang Chun also requested additional U.S. customs information in order to ascertain the reason that it appeared as an exporter. See the February 19, 2003, memorandum from Alice Gibbons to the File entitled "Placing Information on the Record in

<sup>1</sup> Both B.V. Rebes and Chang Chun appeared to be third country resellers.

the Antidumping Duty Investigation of Polyvinyl Alcohol from the People's Republic of China." On November 7, 2002, we informed Chang Chun that, due to the fact that the customs data in question was not public information, we were unable to provide it with this information. We received no further correspondence from Chang Chun.<sup>2</sup>

On November 6, 2002, Wego Chemical & Mineral Corporation (Wego), an importer of PVA from the PRC, notified the Department that it sold subject merchandise in the United States, and that these sales constituted "relevant sales" within the meaning of sections 772(a) and (b) of the Act. Based on these assertions, we informed Wego that it was eligible to participate as a voluntary respondent in this investigation and on November 7, 2002, we issued it a questionnaire. For further discussion, see the November 7, 2002, memorandum from Alice Gibbons to the File entitled "Issuance of Questionnaire to Wego Chemical & Mineral Corp. in the Antidumping Duty Investigation of Polyvinyl Alcohol from the People's Republic of China." On November 25, 2002, Wego informed us that it did not intend to submit a voluntary response in this proceeding.

On November 25, 2002, the Department invited interested parties to comment on surrogate country selection and to provide publicly available information for valuing the factors of production. We received a response from the petitioners on January 6, 2003, and from SVW on February 14, 2003.

During the period November 2002 through February 2003, the Department received responses to sections A, C, and D of the Department's original and supplemental questionnaires from SVW. We received no other responses to our questionnaire from any of the other exporters noted above.

On January 21, 2003, pursuant to 19 CFR 351.205(e), the petitioners<sup>3</sup> made a timely request to postpone the preliminary determination for 30 days. We granted this request and, on January 23, 2003, postponed the preliminary determination until no later than March 14, 2003. See *Postponement of Preliminary Determinations of Antidumping Duty Investigations: Polyvinyl Alcohol from the People's Republic of China and the Republic of Korea*, 68 FR 4763 (Jan. 30, 2003).

<sup>2</sup> We note, however, that we did not designate Chang Chun as a mandatory respondent in this investigation.

<sup>3</sup> The petitioners in this investigation are Celanese Chemicals Ltd. and E.I. DuPont de Nemours & Co. (collectively, "the petitioners").

### Postponement of Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On January 9, 2003, SVW requested that the Department postpone its final determination until 135 days after the publication of the preliminary determination. SVW also included a request to extend the provisional measures to not more than six months. Accordingly, since we have made an affirmative preliminary determination and no compelling reasons for denial exist, we have postponed the final determination until not later than 135 days after the publication of the preliminary determination.

### Period of Investigation

Pursuant to 19 CFR 351.204(b)(1), the POI for an investigation involving merchandise from a non-market economy (NME) is the two most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, September 2002). Therefore, in this case, the POI is January 1, 2002, through June 30, 2002.

### Scope Comments

In accordance with the preamble to our regulations (see Antidumping Duties; Countervailing Duties, 62 FR 27296, 27323 (May 19, 1997)), we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the initiation notice. See the *Initiation Notice*, 67 FR 61591. Although no comments on the scope of the investigation were received in this proceeding, scope comments were received in the companion Japanese case. Because these comments relate to PVA in general, we find that they are applicable to this proceeding. Accordingly, we have placed on the record of this proceeding all public scope comments as well as all public versions of the proprietary scope

documents filed in the companion Japanese case, and we have modified the scope to conform to that set forth in the preliminary determination of that proceeding. See the "Scope Comments" section of the *Notice of Preliminary Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Japan*, 68 FR 8203, 8204-05 (Feb. 20, 2003).

### Scope of Investigation

The merchandise covered by this investigation is PVA. This product consists of all PVA hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid, except as noted below.

The following products are specifically excluded from the scope of this investigation:

- (1) PVA in fiber form.
- (2) PVA with hydrolysis less than 83 mole percent and certified not for use in the production of textiles.
- (3) PVA with hydrolysis greater than 85 percent and viscosity greater than or equal to 90 cps.
- (4) PVA with a hydrolysis greater than 85 percent, viscosity greater than or equal to 80 cps but less than 90 cps, certified for use in an ink jet application.
- (5) PVA for use in the manufacture of an excipient or as an excipient in the manufacture of film coating systems which are components of a drug or dietary supplement, and accompanied by an end-use certification.
- (6) PVA covalently bonded with cationic monomer uniformly present on all polymer chains in a concentration equal to or greater than one mole percent.
- (7) PVA covalently bonded with carboxylic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent, certified for use in a paper application.
- (8) PVA covalently bonded with thiol uniformly present on all polymer chains, certified for use in emulsion polymerization of non-vinyl acetic material.
- (9) PVA covalently bonded with paraffin uniformly present on all polymer chains in a concentration equal to or greater than one mole percent.
- (10) PVA covalently bonded with silan uniformly present on all polymer chains certified for use in paper coating applications.
- (11) PVA covalently bonded with sulfonic acid uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.

(12) PVA covalently bonded with acetoacetylate uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.

(13) PVA covalently bonded with polyethylene oxide uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.

(14) PVA covalently bonded with quaternary amine uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.

The merchandise under investigation is currently classifiable under subheading 3905.30.00 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

#### Nonmarket Economy Country Status

The Department has treated the PRC as an NME country in all past antidumping investigations. *See, e.g., Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255, 72256 (December 31, 1998) (*Mushrooms*). A designation as an NME remains in effect until it is revoked by the Department. See section 771(18)(C) of the Act.

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs us to base normal value (NV) on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed under the "Normal Value" section of the notice, below.

No party in this investigation has requested a revocation of the PRC's NME status. We have, therefore, preliminarily continued to treat the PRC as an NME.

#### Separate Rates

SVW is owned by "all the people" and has provided separate rates information in its November 22, 2002, section A response and in its January 9, January 13, and January 21, 2003, supplemental responses. SVW has stated that there is no element of government ownership or control and has requested a separate company-specific rate.

As stated in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR

22585, 25586 (May 2, 1994) (*Silicon Carbide*) and *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544, 25545 (May 8, 1995) (*Furfuryl Alcohol*), ownership of the company by "all the people" does not require the application of a single rate. Accordingly, SVW is eligible for consideration of a separate rate.

The Department's separate rate test is not concerned, in general, with macroeconomic/border-type controls (e.g., export licenses, quotas, and minimum export prices), particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision making process at the individual firm level. *See Certain Cut-to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value*, 62 FR 61754, 61757 (Nov. 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (Nov. 17, 1997); and *Honey from the People's Republic of China: Preliminary Determination of Sales at Less than Fair Value*, 60 FR 14725, 14726 (Mar. 20, 1995).

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588, 20589 (May 6, 1991), as modified by *Silicon Carbide*. Under the separate rates criteria, the Department assigns separate rates in NME cases only if the respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities. *See Silicon Carbide* and *Furfuryl Alcohol*.

#### 1. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.

SVW has placed on the record a number of documents to demonstrate absence of *de jure* control, including the "Law of the People's Republic of China

on Industrial Enterprises Owned By the Whole People."

In prior cases, the Department has analyzed these laws and found that they establish an absence of *de jure* control. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Partial-Extension Steel Drawer Slides With Rollers From the People's Republic of China*, 60 FR 29571, 29573 (June 5, 1995);<sup>4</sup> *Notice of Final Determination of Sales at Less Than Fair Value: Manganese Metal From the People's Republic of China*, 60 FR 56045, 56046 (Nov. 6, 1995). We have no new information in this proceeding which would cause us to reconsider this determination.

According to SVW, PVA exports are not affected by export licensing provisions or export quotas. SVW claims to have autonomy in setting the contract prices for sales of PVA through independent price negotiations with its foreign customers without interference from the PRC government. Based on the assertions of SVW, we preliminarily determine that there is an absence of *de jure* government control over the pricing and marketing decisions of SVW with respect to its PVA export sales.

#### 2. Absence of De Facto Control

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. *See Mushrooms*, 63 FR 72257. Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by, or subject to, the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts, and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes

<sup>4</sup> This was unchanged in the final determination. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China*, 60 FR 54472, 54474 (Oct. 24, 1995).

independent decisions regarding disposition of profits or financing of losses. *See Id.*

SVW has asserted the following: (1) It establishes its own export prices; (2) it negotiates contracts without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales and uses profits according to its business needs. Additionally, SVW's questionnaire responses indicate that it does not coordinate with other exporters in setting prices or in determining which companies will sell to which markets. This information supports a preliminary finding that there is an absence of *de facto* governmental control of the export functions of these companies. Consequently, we preliminarily determine that SVW has met the criteria for the application of separate rates.

In addition to the above analysis, the Department further analyzed information provided by the petitioners in a submission dated December 11, 2002. In this submission, the petitioners provided documentation which indicated that SVW was part of a debt-equity conversion agreement in April 2000, mandated by the PRC government between Sinopec Group Company (a ministry-level enterprise) and certain PRC banks. However, because there is no evidence on the record that shows that Sinopec Group Company exercises any influence or control in the day-to-day operations of SVW, we preliminarily determine that SVW has met the criteria for the application of separate rates. For further discussion, see the memorandum entitled "Concurrence Memorandum for the Preliminary Determination in the Investigation of Polyvinyl Alcohol from the People's Republic of China," dated March 14, 2003 (the Concurrence Memorandum), on file in room B-099 of the Department's Central Records Unit (CRU).

#### **PRC-Wide Rate and Use of Facts Otherwise Available**

As in all NME cases, the Department implements a policy whereby there is a rebuttable presumption that all exporters or producers located in the NME comprise a single exporter under common government control, the "NME entity." The Department assigns a single NME rate to the NME entity unless an exporter can demonstrate eligibility for a separate rate.

Section 776(a)(2) of the Act provides that if an interested party or any other person (A) withholds information that has been requested by the administering authority; (B) fails to provide such

information by the deadline, or in the form or manner requested, (C) significantly impedes a proceeding, or (D) provides such information that cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination.

Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

Information on the record of this investigation indicates that there are numerous producers/exporters of the subject merchandise in the PRC. As noted in the "Case History" section above, all exporters were given the opportunity to respond to the Department's questionnaire. Based upon our knowledge of PRC exporters (including correspondence received in this proceeding) and the fact that U.S. import statistics show that the responding company did not account for all imports into the United States from the PRC, we have preliminarily determined that PRC exporters of PVA failed to respond to our questionnaire. As a result, use of facts available (FA), pursuant to section 776(a)(2)(A) of the Act, is appropriate.

In selecting among the facts otherwise available, section 776(b) of the Act authorizes the Department to use adverse facts available (AFA) if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with the request for information. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China*, 61 FR 19026, 19028 (April 30, 1996); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation*, 65 FR 5510, 5518 (February 4, 2000). MOFTEC was notified in the Department's questionnaire that failure to submit the requested information by the date specified might result in use of FA. The producers/exporters that decided not to respond to the Department's questionnaire failed to act to the best of their ability in this investigation. Absent a response, we must presume government control of

these companies. The Department has determined, therefore, that in selecting from among the facts otherwise available an adverse inference pursuant to section 776(b) of the Act is warranted.

In accordance with our standard practice, as AFA, we are assigning as the PRC-wide rate the higher of: (1) The highest margin stated in the notice of initiation (*i.e.*, the recalculated petition margin); or (2) the highest margin calculated for any respondent in this investigation. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Quality Steel Products from the People's Republic of China*, 64 FR 34660 (May 31, 2000) and accompanying decision memorandum at *Comment 1*. In this case, the preliminary AFA margin is 97.86 percent, which is the highest margin stated in the notice of initiation. *See Initiation Notice*, 67 FR 61594.

#### **Corroboration of Information**

Section 776(b) of the Act authorizes the Department to use AFA information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record.

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as FA. Secondary information is defined as "[i]nformation 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 concerning the subject merchandise." *See Statement of Administrative Action (SAA)* accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316 at 870 (1994) and 19 CFR 351.308(d). The SAA clarifies that "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. *See the SAA at 870*. The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics, customs data, and information obtained from interested parties during the particular investigation. *See the SAA at 870*.

In order to determine the probative value of the margins in the petition for use as AFA for purposes of this determination, we examined evidence supporting the calculations in the petition. We reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis of the petition, to the extent appropriate information was available

for this purpose. See the October 1, 2002, *Initiation Checklist*, on file in the CRU, Room B-099, of the Main Commerce Department building, for a discussion of the margin calculations in the petition. In accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the export price (EP) and NV calculations on which the margins in the petition were based.

In order to corroborate the petition's EP calculations, we compared the prices in the petition for PVA to the prices submitted by SVW. In order to corroborate the petitioners' NV calculation, we compared the petitioners' factor consumption and/or surrogate value data for PVA to the data reported by SVW for the most significant factors—vinyl acetate monomer (VAM) and its by-product acetic acid, electricity, factory overhead, and selling, general, and administrative (SG&A) expenses, and profit—and to surrogate values selected by the Department for the preliminary determination, as discussed below.

As discussed in the March 14, 2003, memorandum from the team to the file entitled "Corroboration of Data Contained in the Petition for Assigning an Adverse Facts Available Rate," we found that the U.S. price and factors of production information in the petition to be reasonable and of probative value. As a number of the surrogate values selected for the preliminary determination differed from those used in the petition, we compared the petition margin calculations to the calculations based on the selected surrogate values wherever possible and found they were reasonably close. Therefore, we preliminarily determine that the petition information has probative value. Accordingly, we find that the highest margin stated in the notice of initiation, 97.86 percent, is corroborated within the meaning of section 776(c) of the Act. For further discussion, see the March 14, 2003, memorandum to the file from the team entitled "Corroboration of Data Contained in the Petition for Assigning an Adverse Facts Available Rate."

#### Fair Value Comparisons

To determine whether sales of PVA from the PRC were made at LTFV, we compared the EP to the NV, as described in the "Export Price," and "Normal Value" sections of this notice, below. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs by product to the appropriate product-specific NV.

#### Export Price

In accordance with section 772(a) of the Act, we based our calculations on EP for SVW because the subject merchandise was sold by the producer/exporter directly to the first unaffiliated purchaser prior to importation. We based EP on the packed FOB PRC port or CIF U.S. port prices to unaffiliated purchasers in the United States, as appropriate. We made deductions for movement expenses, in accordance with 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight (including truck, rail, and waterway), foreign brokerage and handling, ocean freight, and marine insurance. As certain of these movement services were provided by NME suppliers, we valued them using Indian or other market-economy rates. For further discussion of our use of surrogate data in an NME proceeding, as well as selection of India as the appropriate surrogate country, see the "Normal Value" section of this notice, below.

For foreign inland truck freight we used price quotes obtained by the Department from Indian truck freight companies. These price quotes were recently used in the 2000–2001 antidumping duty administrative review of persulfates from the PRC. See *Persulfates From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review and Notice of Partial Rescission*, 67 FR 50866, 50867, 50869 (Aug. 6, 2002)<sup>5</sup> (*Persulfates*).

For foreign inland rail freight, we used per kilometer price quotes published in the July 2001 *Reserve Bank of India Bulletin*. These price quotes were used in the 2001–2002 antidumping duty investigation of non-malleable cast iron pipe from the PRC and in the 2001–2002 antidumping duty administrative review of synthetic indigo from the PRC. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China*, 67 FR 60214 (Sept. 25, 2002)<sup>6</sup> and *See Synthetic Indigo from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review*, 68 FR

11371, 11372 (Mar. 10, 2003) (*Indigo from the PRC*).

For foreign inland waterway freight, we used an Indian domestic ship rate obtained in the 1999–2000 antidumping duty administrative review and used in the 2000–2001 antidumping duty administrative review of helical spring lock washers from the PRC. See *Certain Helical Spring Lock Washers From the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 67 FR 8520 and accompanying decision memorandum at Comment 5 (Feb. 25, 2002) and *Certain Helical Spring Lock Washers From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review*, 67 FR 45702, 45704 (July 10, 2002).<sup>7</sup>

For foreign brokerage and handling expenses, we used brokerage and handling data obtained in the 1998–1999 antidumping duty investigation and used in the 2001–2002 antidumping duty administrative review of synthetic indigo from the PRC. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Synthetic Indigo from the People's Republic of China*, 64 FR 69723 (December 14, 1999)<sup>8</sup> and *Indigo from the PRC*, 68 FR 11372.

With respect to ocean freight, SVW asserted that it used market-economy suppliers for its shipments of PVA. However, based on the submitted information, we could not establish that the ocean freight expenses SVW paid reflect prices set by market-economy carriers. Specifically, SVW's questionnaire responses indicate that ocean freight was paid to a PRC company, not a market-economy supplier. Therefore, in accordance with our practice, we valued ocean freight using a surrogate value. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Certain Non-Frozen Apple Juice Concentrate from the People's Republic of China*, 65 FR 19873 (April 13, 2000) and accompanying decision memorandum at *Comment 3*. Specifically, we valued ocean freight for SVW's CIF shipments using a price quote obtained in the 2001–2002 antidumping duty administrative review of synthetic indigo from the PRC. See *Indigo from the PRC*, 68 FR 11372.

<sup>5</sup> This was unchanged in the final determination. See *Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 68 FR 6712 (Feb. 10, 2003) (*Persulfates Final*).

<sup>6</sup> This was unchanged in the final determination. See *Notice of Final Determination of Sales at Less Than Fair Value: Non-Malleable Cast Iron Pipe Fittings from the People's Republic of China*, 68 FR 7765 (Feb. 18, 2003).

<sup>7</sup> This was unchanged in the final determination. See *Certain Helical Spring Lock Washers From the People's Republic of China; Final Results of Antidumping Duty Administrative Review*, 67 FR 69717 (Nov. 19, 2002).

<sup>8</sup> This was unchanged in the final determination. See *Synthetic Indigo from the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 25706 (May 3, 2000).

For marine insurance we used price quotes obtained by the Department from a market-economy provider and used in the 2000–2001 antidumping duty administrative review of persulfates from the PRC. *See Persulfates*, 67 FR 50867.

Where appropriate, we adjusted the values to reflect inflation up to the POI using the wholesale price indices (WPI) or the purchase price indices published by the International Monetary Fund (IMF), as appropriate.

## Normal Value

### A. Surrogate Country

Section 773(c)(4) of the Act requires the Department to value an NME producer's factors of production, to the extent possible, in one or more market economy countries that: (1) Are at a level of economic development comparable to that of the NME country, and (2) are significant producers of comparable merchandise. The Department has determined that India, Pakistan, Indonesia, Sri Lanka, and the Philippines are countries comparable to the PRC in terms of overall economic development. *See* the October 30, 2002, memorandum from Jeffrey May to Louis Apple entitled "Antidumping Duty Investigation on Polyvinyl Alcohol from the People's Republic of China (PRC)."

According to the available information on the record, we have determined that India is a significant producer of merchandise comparable to PVA (*i.e.*, polyvinyl acetate, the precursor polymer of fully-hydrolyzed PVA). For purposes of the preliminary determination, we have selected India as the surrogate country, based on the quality and contemporaneity of the currently available data. Accordingly, we have calculated NV using Indian values for the PRC producer's factors of production. We have obtained and relied upon publicly available information wherever possible.

### B. Self-Produced Inputs

In accordance with section 773(c) of the Act, we calculated NV based on factors of production reported by SVW for the POI. As the basis for NV, SVW reported factors of production information for each separate stage of production, including the factors used in the production of all self-produced material and energy inputs, and by-products.<sup>9</sup>

<sup>9</sup>In addition to its own factors of production, SVW reported the factors of production used by a joint venture to produce acetic acid. However, we did not value those factors when calculating NV in this investigation. Rather, we have valued the acetic acid purchased from the joint venture and

Our general policy, consistent with section 773(c)(1)(B) of the Act, is to value the factors of production that a respondent uses to produce the subject merchandise. *See Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 4986 (January 31, 2003).

If the NME respondent is an integrated producer, we take into account the factors involved in each stage of the production process. For example, in the case of preserved canned mushrooms produced by a fully integrated firm, the Department valued the factors used to grow the mushrooms, the factors used to further process and preserve the mushrooms, and any additional factors used to can and package the mushrooms, including any used to manufacture the cans (if produced in-house). If, on the other hand, the firm was not integrated, but simply a processor that bought fresh mushrooms to preserve and can, the Department valued the purchased mushrooms and not the factors used to grow them. *See* the final results valuation memorandum for *Final Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms From the People's Republic of China*, 66 FR 31204 (June 11, 2001). This policy has been applied to both agricultural and industrial products. *See, e.g., Persulfates Final and Notice of Final Determinations of Sales at Less Than Fair Value: Brake Drums and Brake Rotors From the People's Republic of China*; 62 FR 9160 (February 28, 1997). Accordingly, our standard NME questionnaire asks respondents to report the factors used in the various stages of production.

There are, however, two limited exceptions to this general rule. First, in some cases a respondent may report factors used to produce an intermediate input that accounts for a small or insignificant share of total output. The Department recognizes that, in those cases, the increased accuracy in our overall calculations that would result from valuing (separately) each of those factors may be so small so as to not justify the burden of doing so. Therefore, in those situations, the

consumed during the POI, accordance with our practice. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Ferrovandium From the People's Republic of China*, 67 FR 45088, 45092 (July 8, 2002). For further discussion, see the Concurrence Memorandum.

Department would value the intermediate input directly.

Second, in certain circumstances, it is clear that attempting to value the factors used in a production process yielding an intermediate product would lead to an inaccurate result because a significant element of cost would not be adequately accounted for in the overall factors buildup. For example, in a recent case, we addressed whether we should value the respondent's factors used in extracting iron ore—an input to its wire rod factory. The Department determined that, if it were to use those factors, it would not sufficiently account for the capital costs associated with the iron ore mining operation given that the surrogate used for valuing production overhead did not have mining operations. Therefore, because ignoring this important cost element would distort the calculation, the Department declined to value the inputs used in mining iron ore and valued the iron ore instead. *See Notice of Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod From Ukraine*, 67 FR 55785 (August 30, 2002); *Final Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From the People's Republic of China*; 66 FR 49632 (September 28, 2001); *Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China*; 62 FR 61964 (November 20, 1997); and *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*; 60 FR 22544 (May 8, 1995).

The petitioners have argued that the Department's policy is inappropriate in this investigation because the surrogate producer from which the financial ratios are derived is at a level of integration which differs significantly from SVW's own. Given these circumstances, the petitioners conclude that valuing each component would understate factory overhead, SG&A expenses, and profit; instead, the petitioners request that the Department begin its valuation at either the ultimate or penultimate stage of the production process.

After analyzing this issue, we find that the facts on the record do not warrant a departure from our normal practice, because we find that SVW and the surrogate producer in question are at similar levels of vertical integration. Therefore, we have valued the factors reported for each self-produced input for purposes of the preliminary determination. For further discussion, see the March 14, 2003, memorandum

from the team to Susan Kuhbach, Acting Deputy Assistant Secretary for Group 1, entitled "Treatment of Self-Produced Inputs in the Less Than Fair Investigation on Polyvinyl Alcohol from the People's Republic of China."

**C. Factors of Production**

For purposes of calculating NV, we valued PRC factors of production, in accordance with section 773(c)(1) of the Act. Factors of production include, but are not limited to: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital cost, including depreciation. In examining surrogate values, we selected, where possible, the publicly available value which was: (1) An average non-export value; (2) representative of a range of prices within the POI or most contemporaneous with the POI; (3) product-specific; and (4) tax-exclusive. For a more detailed explanation of the methodology used in calculating various surrogate values, see the memorandum entitled "Preliminary Determination Factors Valuation Memorandum," dated March 14, 2003 (the Factors Memorandum), on file in the CRU.

In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. We added to Indian surrogate values surrogate freight costs using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corporation v. United States*, 117 F. 3d 1401, 1407-08 (Fed. Cir. 1997). For a discussion of the valuation of SVW's freight costs, see the "Export Price" section of this notice, above.

We valued acetic acid, d-tartaric acid, solid sodium hydroxide, sodium hexametaphosphate, sodium nitrite, sulfuric acid, and zinc oxide using Indian domestic market prices reported in *Chemical Weekly* contemporaneous with the POI. We valued activated carbon,<sup>10</sup> antioxidant, azodiisobutyronitrile, bacteria killer, hydroquinone, liquid ammonia, liquid sodium hydroxide, monoethanolamine, n-butyl acetate, polyferric sulfate, and sodium carbonate using India import statistics as published by the *Monthly*

*Statistics of Foreign Trade of India* covering the period April 2001 through January 2002.

We valued natural gas using a price obtained from the website of the Gas Authority of India Ltd., a supplier of natural gas in India, covering the period January through June 2002. For further discussion, see the Factors Memorandum.

To value paper bags and polyethylene plastic bags (*i.e.*, the packing materials reported by the respondent), we used import values from the *Monthly Statistics of Foreign Trade of India*.

Regarding the remaining raw material factors of production reported by SVW, we did not value these factors because: (1) Surrogate value information was not available; and (2) the materials were reported as used in very small amounts. Moreover, we did not value certain treatment chemicals used in treated water in our calculation of NV. Rather, we classified these treatment chemicals as part of factory overhead, in order to avoid the possibility of double counting them. See the Concurrence Memorandum.

Regarding electricity and steam, we valued each of the factors of production reported by SVW for which we were able to obtain surrogate value information (*i.e.*, direct labor, compressed air, and steam coal) using the regression-based wage rate from the Department's Import Administration website, the input factors provided by SVW, and the *Monthly Statistics of Foreign Trade of India*, respectively. We find that it is appropriate to value SVW's energy inputs in this manner given that the surrogate producer from which the factory overhead ratio is derived also produces its own electricity and steam. For further discussion on the valuation of electricity and steam, see the Concurrence Memorandum and the Factors Memorandum.

We valued labor based on a regression-based wage rate, in accordance with 19 CFR 351.408(c)(3).

To determine factory overhead, depreciation, SG&A expenses,<sup>11</sup> interest expenses, and profit for the finished product, we relied on rates derived from the financial statements of Jubilant Organosys Ltd. (formerly VAM Organic Chemical Ltd.), an Indian producer of comparable merchandise. We applied

<sup>11</sup> Because we believe that SG&A labor is not classified as part of the SG&A costs reflected on Jubilant's financial statements, we have accounted for SG&A labor hours by calculating a dollar-per-MT labor hours amount and adding this amount to SG&A. For further discussion, see the March 14, 2003, memorandum from the Team, entitled "U.S. Price and Factors of Production Adjustments for the Preliminary Determination."

these ratios to SVW's costs (determined as noted above) for materials, labor, and energy, prior to the offset for the recovery of acetic acid. For further discussion, see the Factors Memorandum. See also the March 14, 2003, memorandum from the team to Susan Kuhbach entitled "Treatment of Self-Produced Inputs in the Less Than Fair Investigation on Polyvinyl Alcohol from the People's Republic of China."

Finally, SVW reported that it generated certain by-products as a result of the production of PVA or the inputs used to produce PVA.<sup>12</sup> Because either SVW did not provide sufficient information to permit the accurate valuation of these by-products or we were unable to obtain appropriate surrogate value data for them, we did not value these by-products for the preliminary determination. For further discussion, see the Concurrence Memorandum.

**Verification**

As provided in section 782(i) of the Act, we intend to verify all information relied upon in making our final determination.

**Suspension of Liquidation**

In accordance with section 733(d)(2) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Because the estimated weighted-average preliminary dumping margin for SVW is *de minimis*, we are not directing the Customs Service to suspend liquidation of entries of merchandise produced and exported by SVW. We are also instructing the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average dumping margin for all entries of PVA from the PRC, except for entries of this merchandise produced and exported by SVW. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Manufacturer/exporter	Weighted-average margin (in percent)
Sinopec Sichuan Vinylon Works ..	0.20
PRC-wide .....	97.86

<sup>12</sup> These by-products included alkynes gas, methyl acetate, and PVA scrap.

<sup>10</sup> See the Factors Memorandum for discussion of our selection of surrogate value data for activated carbon.

The PRC-wide rate applies to all entries of the subject merchandise except for entries from exporters/producers that are identified individually above.

#### Disclosure

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

#### ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

#### Public Comment

Case briefs for this investigation must be submitted no later than seven days after the date of the final verification report issued in this proceeding. Rebuttal briefs must be filed five days from the deadline date for case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. See 19 CFR 351.309.

Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. See 19 CFR 351.310.

We will make our final determination by 135 days after the date of this

preliminary determination, pursuant to section 735(a)(2) of the Act.

This determination is published pursuant to sections 733(f) and 777(i) of the Act.

Dated: March 14, 2003.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Import Administration.*

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**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-850]

#### Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Polyvinyl Alcohol From the Republic of Korea

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

**ACTION:** Notice of preliminary determination of sales at less than fair value.

**SUMMARY:** We preliminarily determine that polyvinyl alcohol from the Republic of Korea is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended.

Interested parties are invited to comment on this preliminary determination. We will make our final determination not later than 135 days after the date of publication of this preliminary determination.

**EFFECTIVE DATE:** March 20, 2003.

**FOR FURTHER INFORMATION CONTACT:** Irina Itkin, Office of AD/CVD Enforcement, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-0656.

#### Preliminary Determination

The Department has conducted this antidumping investigation in accordance with section 733 of the Tariff Act of 1930, as amended (the Act). We preliminarily determine that polyvinyl alcohol (PVA) from the Republic of Korea (Korea) is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the "Suspension of Liquidation" section of this notice.

#### Case History

Since the initiation of this investigation (*Initiation of Antidumping Duty Investigations: Polyvinyl Alcohol from Germany, Japan, the People's Republic of China, the Republic of Korea, and Singapore*, 67 FR 61591 (Oct. 1, 2002)) (*Initiation Notice*), the following events have occurred.

On October 11, 2002, the petitioners<sup>1</sup> and one Korean exporter of PVA, DC Chemical Company, Ltd. (DC CHEM), submitted comments on the model-matching criteria to be used by the Department. Two interested parties in the companion case on PVA from Japan, Kuraray Co., Ltd. (Kuraray) and Marubeni Specialty Chemicals, Inc. (Marubeni), also filed comments on the model-matching criteria to be used by the Department. On October 15, 2002, Marubeni submitted an amendment to its model-matching comments. On December 13, 2002, the petitioners and another Japanese exporter, the Nippon Synthetic Chemical Industry Co., Ltd. (Nippon Gohsei), submitted additional model-matching comments.<sup>2</sup>

On October 21, 2002, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of PVA from Korea are materially injuring the United States industry. See ITC Investigation Nos. 731-TA-1014-1018 (Publication No. 3553, *Polyvinyl Alcohol from Germany, Japan, the People's Republic of China, the Republic of Korea, and Singapore*, 67 FR 65597 (Oct. 25, 2002)).

On October 22, 2002, we selected DC CHEM, the only known producer/exporter of PVA from Korea, as the mandatory respondent in this proceeding. For further discussion, see the memorandum to Louis Apple, Director, Office 2, from the Team entitled "Respondent Selection," dated October 22, 2002. We also issued the antidumping questionnaire to DC CHEM on October 22, 2002.

During the period November 2002 through February 2003, we received responses to the Department's original and supplemental questionnaires.

On January 21, 2003, pursuant to 19 CFR 351.205(e), the petitioners made a timely request to postpone the preliminary determination for 30 days. We granted this request and, on January 30, 2003, postponed the preliminary

<sup>1</sup> The petitioners in this investigation are Celanese Chemicals Ltd. and E.I. Dupont de Nemours & Co. (collectively, "the petitioners").

<sup>2</sup> Because the comments submitted by the parties in the companion investigation of PVA from Japan relate to this investigation, we placed them on the record of this case.