

waived or dismissed by the courts. *City of Angoon v. Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21).

Dated: December 27, 2006.

**Nancy Hall,**

*Jackson District Ranger.*

[FR Doc. E6-22575 Filed 1-4-07; 8:45 am]

**BILLING CODE 3410-11-P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### Deemed Export Advisory Committee; Notice of Partially Closed Meeting

The Deemed Export Advisory Committee (DEAC) will meet in open sessions on January 22, 2007 from 8 a.m.–12 p.m. and January 23, 2007 from 8 a.m.–10 a.m. at the American Electronics Association, 5201 Great American Parkway, Suite 400, Santa Clara, CA 95054. The DEAC is a Federal Advisory Committee established in accordance with the requirements of the Federal Advisory Committee Act, as amended, 5 U.S.C. app.2. It advises the Secretary of Commerce on deemed export licensing policy. A tentative

agenda of topics for discussion is listed below. While these topics will likely be discussed, this list is not exhaustive and there may be discussion of other related items during the public session.

#### January 22 and 23, 2007

##### Public Session

1. Introductory Remarks.
2. Current Deemed Export Control Policy Issues.
3. Technology Transfer Issues.
4. U.S. Industry Competitiveness.
5. U.S. Academic and Government Research Communities.
6. Industry, Academia and other Stakeholder Comments.

A limited number of seats will be available for the public session. Reservations will not be accepted. To the extent time permits, members of the general public may present oral statements to the DEAC. The general public may submit written statements at any time before or after the meeting. However, to facilitate distribution to DEAC members, BIS suggests that general public presentation materials or comments be forwarded before the meeting to Ms. Yvette Springer at [Yspringer@bis.doc.gov](mailto:Yspringer@bis.doc.gov) or (202) 482-2813.

#### January 23, 2007

##### Closed Session

7. The DEAC will also meet in a closed session on Tuesday, January 23, 2007, from 10 a.m.–12 p.m. During the closed session, there will be discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). The Assistant Secretary for Administration formally determined on December 12, 2006, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § (10)(d)), that the portion of the meeting concerning trade secrets and commercial or financial information deemed privileged or confidential as described in 5 U.S.C. 552b(c)(4) and the portion of the meeting concerning matters the disclosure of which would be likely to significantly frustrate implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3). All other portions of the DEAC meeting will be open to the public.

This action also discusses recent leadership changes within the DEAC. Originally, the Committee was formed with two co-chairmen, Robert Gates, who was then President of Texas A&M, and Norm Augustine, retired Chairman

& CEO of Lockheed Martin.

Subsequently, Gates was nominated by President Bush to serve as Secretary of Defense. The Senate confirmed Gates as Secretary of Defense on December 6, 2006. Upon confirmation, Gates resigned his position as co-chair and member of the DEAC.

In accordance with the DEAC's charter, the Secretary of Commerce has appointed Sean O'Keefe, Chancellor, Louisiana State University, and Ruth David, President and CEO, Analytic Services, Inc., to serve as vice-chairpersons. In their new roles, O'Keefe and David will assist Augustine the chairman, in formulating a comprehensive review of deemed export policies. The DEAC leadership comprises a unique and diverse set of experiences from industry, government and academia, and BIS expects that O'Keefe and David will contribute significantly to the DEAC in its preparation of recommendations.

For more information, please call Yvette Springer at (202) 482-2813.

Dated: December 28, 2006.

**Yvette Springer,**

*Committee Liaison Officer.*

[FR Doc. 06-9983 Filed 1-4-07; 8:45 am]

**BILLING CODE 3510-JT-M**

## DEPARTMENT OF COMMERCE

### International Trade Administration

(A-580-807)

#### Initiation of Antidumping Duty Changed Circumstances Review: Polyethylene Terphthalate Film Sheet and Strip from Korea

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

**SUMMARY:** In accordance with section 751(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216(b), DuPont Teijin Films (DuPont), Mitsubishi Polyester Film, Inc. (Mitsubishi), and Toray Plastics (America) (Toray), Inc. (collectively DuPont, Mitsubishi, and Toray are the Petitioners), filed a request for the Department to initiate a changed circumstances review of the antidumping duty order on polyethylene terephthalate film, sheet, and strip (PET film) from Korea. Petitioners allege that Kolon Industries Inc. (Kolon), a Korean PET film producer previously revoked from the antidumping duty order, has resumed selling subject merchandise at prices below normal value (NV). Petitioners explain that Kolon has agreed in writing

to reinstatement in the antidumping duty order if Kolon were found to have resumed dumping. Petitioners contend that Kolon has violated its agreement not to sell PET film at prices below NV in the United States subsequent to Kolon's revocation from the order. Therefore, Petitioners request that the Department reinstate the antidumping duty order with respect to Kolon. Petitioners further request that the Department of Commerce (the Department) immediately order suspension of liquidation for all entries of Korean PET film manufactured and exported by Kolon.

The Department finds the information submitted by Petitioners is sufficient to warrant initiation of a changed circumstances review of the antidumping duty order on PET film from Korea. In this changed circumstances review, we will determine whether Kolon is selling PET film at less than NV subsequent to its revocation from the order. If we determine in this changed circumstances review that Kolon sold at less than NV and resumed dumping PET film, we will direct Customs and Border Protection (CBP) to suspend liquidation of all entries of Korean PET film manufactured and exported by Kolon.

**EFFECTIVE DATE:** January 5, 2007.

**FOR FURTHER INFORMATION CONTACT:**

Michael J. Heaney or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482-4475 and (202) 482-0649, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On June 5, 1991, the Department published the antidumping duty order on PET film from Korea. See *Antidumping Duty Order: Polyethylene Terephthalate Film Sheet and Strip from Korea*, 56 FR 25660 (June 5, 1991) (*Order*). In June of 1995, in the course of the 1994 - 1995 administrative review, Kolon requested revocation of the *Order* with respect to its sales of subject merchandise. See *Polyethylene Terephthalate Film Sheet and Strip from Korea: Preliminary results of Antidumping Duty Administrative Review, Intent to Revoke the Order in Part, and Termination in Part*, 61 FR 36032, 36033 (July 9, 1996).

As part of its request for revocation, on June 28, 1996, Kolon agreed to immediate reinstatement in the *Order* pursuant to 19 CFR 353.25(b) of the

regulations in effect at the time.<sup>1</sup> See Kolon's June 30, 1995 letter to the Department requesting revocation. In its revocation request, Kolon agreed to immediate reinstatement in the *Order* as long as any producer or reseller is subject to the order, should the Department determine that Kolon "sold polyethylene terephthalate film, sheet, and strip from Korea at less than foreign market value." *Id.* On November 14, 1996, the Department revoked the antidumping duty order with respect to Kolon after having determined that Kolon sold the merchandise at not less than normal value for a period of at least three consecutive years.<sup>2</sup> See *Polyethylene Terephthalate Film Sheet and Strip from the Republic of Korea: Final Results of Antidumping Duty Administrative Review and Notice of Revocation in Part*, 61 FR 58374 (November 14, 1996) (*Revocation*).

On July 19, 2006, Petitioners submitted an allegation (accompanied by the supporting documentation summarized below) suggesting Kolon has resumed dumping PET film in the United States since revocation in part from of the *Order*, and requested a changed circumstances review. See Petitioners' July 19, 2006 letter to the Department. Petitioners requested that the Department reinstate the *Order* with respect to Kolon's exports to the United States of PET film produced by Kolon. Petitioners also requested that the Department immediately order suspension of liquidation for all entries of Korean PET film manufactured and exported by Kolon. *Id.*

On August 4, 2006, Kolon filed a letter contesting Petitioner's request for a changed circumstances review. See Kolon's August 4, 2006 comments. Kolon asserted that section 751(b) of the Act, the statutory provision governing

changed circumstance reviews, does not cover an attempt to reinstate a revoked company into an antidumping duty order. Kolon further argued that the reinstatement provisions in effect when Kolon was revoked were impeached by *Asahi Chemical Industry Co., Ltd. v. United States*, 727 F. Supp. 625 (CIT 1989) (*Asahi*). Kolon asserted the Department's "new" regulations promulgated on May 19, 1997, codified at 19 CFR section 351, constituted a failed "fix" of the Department's invalid reinstatement procedures in response to *Asahi*. See Kolon's August 2006 Comments at 6. Kolon also noted the Department's current regulations governing revocation came into effect in 1997, which was subsequent to Kolon's revocation. Kolon thus argued that the Department cannot rely on these 1997 regulations to remedy the earlier flaws identified by the Court in *Asahi*. Finally, Kolon insisted that during the history of the antidumping duty order, the company had never itself been found to be dumping. Kolon asserted the 0.60 percent margin that the Department determined for Kolon in the first administrative review, the sole above *de minimis* margin found for Kolon, was based upon an incorrect method for adjusting for home market value added taxes. See *Polyethylene Terephthalate Film, Sheet and Strip from the Republic of Korea; Final Results of Antidumping Duty Administrative Review*, 60 FR 42835 (August 17, 1995), amended by *Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea; Amended Final Results of Antidumping Duty Administrative Review*, 61 FR 5375 (February 12, 1996) (finding a margin of 0.60 percent for Kolon for the period November 30, 1990 through May 31, 1992). Kolon noted the Department determined *de minimis* margins for the three subsequent reviews, and asserted the margin for the first administrative review would also have been *de minimis* had the Department completed a pending remand of this review. Kolon maintained that it agreed to dismiss its court action contesting the results of the first administrative review "subject to the explicit condition that its agreement to withdraw the appeal not be deemed an admission that Kolon had been dumping in the first administrative review." *Id.* at 9.

On August 14, 2006, Petitioners filed rebuttal comments to Kolon's August 4, 2006 comments. Petitioners asserted that a changed circumstances request is the proper venue for considering whether a revoked company should be reinstated within the scope of an order.

<sup>1</sup> As described more fully below, 19 CFR 353.25(b) has subsequently been superceded by 19 CFR 351.222(b)(2)(i)(B). However, the language in 19 CFR 351.222(b)(2)(i)(B) is largely unchanged from 19 CFR 353.25(b).

<sup>2</sup> The three administrative reviews forming the basis of the revocation are the June 1, 1992 through May 31, 1993 review; the June 1, 1993 through May 31, 1994 review; and the June 1, 1994 through May 31, 1995 review. The final results of the June 1992 through May 31, 1993 and the June 1993 through May 31, 1994 administrative reviews of Kolon were published on July 5, 1996. See *Polyethylene Terephthalate Film Sheet and Strip from Korea; Final Results of Antidumping Duty Administrative Review and Notice of Revocation in Part* 61 FR 35177, July 5, 1996 (second and third administrative reviews). The final results of the June 1, 1994 through May 31, 1995 administrative review of Kolon were published on November 14, 1996. See *Polyethylene Terephthalate Film Sheet and Strip from Korea; Final Results of Antidumping Duty Administrative Review and Notice of Revocation in Part* 61 FR 58374 (November 14, 1996) (fourth administrative review).

Petitioners argued that a reinstatement request is “a review of a final affirmative determination that resulted in an antidumping order,” and that the “identities of the producers and exporters who are subject to the order is part and parcel of that affirmative determination.” Petitioners’ August 14, 2006 comments at 3. Additionally, Petitioners accused Kolon of “misinterpreting” *Asahi*, explaining that *Asahi* dealt with the Department’s earlier 1980 regulations. *Id.* at 5. Petitioners argued that the March 1989 regulations in effect when Kolon signed its agreement to reinstatement fully addressed the concerns the Court expressed in *Asahi*. Petitioners asserted the Court’s concerns are addressed because reinstatement will only occur if: 1) a producer or reseller is still subject to the order, 2) if a revoked respondent “sold the merchandise at less than foreign market value”, and 3) where an order has been revoked in part. Petitioners thus maintained the revised March 1989 regulations applicable when the Department revoked the order with respect to Kolon cured the flaws identified in *Asahi* and are thus valid. Moreover, Petitioners insisted that the 1997 regulations adopted by the Department “in connection with the Uruguay Round Agreements Act did not alter the revocation and reinstatement provisions of the March 1989 regulations in any material way.” *Id.* at 7. Accordingly, Petitioners asserted Kolon’s suggestion that the 1997 regulations somehow constitute a failed “fix” of the reinstatement procedures is misplaced. Finally, Petitioners characterized Kolon’s argument concerning whether it was ever found to be dumping as a “red herring.” *Id.* at 10. Petitioners suggested Kolon’s assertion that it did not dump PET film during the first administrative review is immaterial. Petitioners argued that the controlling issue is that Kolon signed a “certification that contained a reinstatement agreement and that the Department revoked the order with respect to the company based on that certification.” *Id.* Moreover, Petitioners asserted that even had the Department concluded that the margin for Kolon for the November 1, 1990 through March 31, 1992 review was *de minimis*, the reinstatement agreement is still legally binding because Kolon of its own volition signed the reinstatement agreement.

#### **Allegation of Resumed Dumping**

On September 20, 2006, we sent a letter to Petitioners requesting additional information concerning the U.S., home market and cost data

provided by Petitioners in their July 19, 2006 submission. Petitioners provided their response on October 5, 2006. On November 1, 2006, we requested additional information from Petitioners concerning their submissions of July 19, 2006 and October 5, 2006. Petitioners submitted their response to our second request for additional information on November 9, 2006.

In their July 19, 2006, October 5, 2006 and November 9, 2006 submissions, Petitioners provided price quotes concerning Kolon’s sales activity in the U.S. and home market and argued that Kolon had sold PET film at less than NV during the period July 1, 2005 through June 30, 2006. Petitioners also provided cost data in these submissions suggesting Kolon made home market sales at prices below the cost of production (COP). The allegation of resumed dumping upon which the Department has based its decision to initiate a changed circumstances review is detailed below. The sources of data for the deductions and adjustments relating to NV and U.S. price are discussed in greater detail in the *Changed Circumstances Review Initiation Checklist* dated concurrently with this notice. Should the need arise to use any of this information as facts available under section 776 of the Act, we may reexamine the information and revise the margin calculation, if appropriate.

#### **1. Export Price (EP)**

Petitioners based their calculation of U.S. price upon price quotes they obtained for three types of PET film commonly sold in the United States. In their July 19, 2006 submission, Petitioners made a deduction to EP for international freight and insurance, U.S. duties, and U.S. inland freight. Petitioners also made a downward adjustment to U.S. price for slitting costs and material losses. Petitioners provided price quotes to end-users. To approximate a price to distributors, Petitioners made a deduction from EP to approximate the distributor’s mark-up. In their November 9, 2006 submission, Petitioners provided first-person affidavits from the individuals who collected the price quotes referenced in Petitioners’ July 19, 2006 submission. Also, Petitioners removed the deduction for slitting costs from their calculation of EP in their November 9, 2006 calculation of U.S. price.

#### **2. Normal Value**

To calculate NV, Petitioners provided in their July 19, 2006 submission information on Kolon’s pricing of PET film in the Korean market. This

information was obtained through a Korean manufacturer of PET film and covered sales of three types of PET film commonly offered for sale by Kolon in the Korean market. The Korean pricing information covered the same types of PET film as those serving as the basis for EP. In their July 19, 2006 submission, Petitioners made a circumstance of sale adjustment for differences in advertising expenses between the U.S. and the home market (*i.e.*, Korea). (Petitioners removed this adjustment for advertising from their November 9, 2006 calculation of NV.) In their November 9, 2006 letter, Petitioners provided first-person affidavits from the individuals who collected the pricing information. Petitioners made adjustments to NV for differences in U.S. and Korean credit expenses and for packing expenses.

#### **3. Sales Below Cost of Production and Constructed Value**

Petitioners also alleged that Kolon’s sales of PET film in the home market were made at prices below the fully absorbed COP, within the meaning of section 773(b) of the Act, and requested that the Department conduct a sales-below-cost investigation. Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacture (COM), selling, general and administrative (SG&A) expenses, and financial and packing expenses. Based upon a comparison of the gross price of the foreign like product in the home market to the COP of the product, we find reasonable grounds to believe or suspect that sales of the foreign like product were made below the COP, within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating a sales-below-cost investigation.

Because Petitioners alleged that Kolon sold PET film below the COP in the home market, Petitioners provided a comparison of EP to constructed value (CV). Petitioners based CV upon the sum of COM, SG&A expenses, financial expenses, profit and packing.

#### **4. Alleged Margins of Dumping**

Based upon the information summarized above, Petitioners suggest Kolon is dumping the subject merchandise. Depending upon the type of PET film, petitioners estimate margins of 29 to 62 percent for price comparisons, and margins of 43 to 72 percent for comparisons of EP to CV.

#### **Scope of the Review**

Imports covered by this review are shipments of all gauges of raw, pretreated, or primed polyethylene terephthalate film, sheet, and strip,

whether extruded or coextruded. The films excluded from this review are metallized 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 of more than 0.00001 inches (0.254 micrometers) thick.

PET film is currently classifiable under Harmonized Tariff Schedule (HTS) subheading 3920.62.00.00. The HTS subheading is provided for convenience and for customs purposes. The written description remains dispositive as to the scope of the product coverage.

This changed circumstances review covers Kolon and the period July 1, 2005 through June 30, 2006.

#### Initiation of Changed Circumstances Review

We find Petitioners have provided sufficient evidence to initiate a changed circumstances review in which we will determine whether Kolon should be reinstated within the order of PET film from Korea. Kolon has argued that in *Asahi* the CIT ruled the Department is not permitted by the statute to reinstate a revoked order without a new injury finding by the International Trade Commission (the Commission). Kolon also contends that under *Asahi* the Department has no authority to reinstate a revoked order, and has further argued that the statutory provision governing changed circumstance reviews does not cover an attempt to reinstate a revoked company into an antidumping duty order. Finally, Kolon insists it has never been found by the Department to be dumping. For the reasons, outlined below, we disagree with Kolon.

Pursuant to section 751(b) of the Act, the Department will conduct a changed circumstances review upon receipt of a request "from an interested party for review of an antidumping duty order which shows changed circumstances sufficient to warrant a review of the order." Petitioners' documented allegation that Kolon has resumed dumping PET film subsequent to its revocation from the order is an appropriate basis for a changed circumstances review.

The Department's authority to reinstate a revoked company into an antidumping duty order derives from sections 751(b) and (d) of the Act and 19 CFR 351.222(b) and (e). In particular, the Department's authority to partially revoke an order is expressed in section 751(d) of the Act. The statute, however, provides no detailed description of the criteria, procedures or conditions relating to the Department's exercise of this authority. Accordingly, the

Department has issued regulations setting forth in detail how the Department will exercise the authority granted to it under the statute. In particular, the Department has reasonably interpreted the authority to partially revoke the antidumping duty order with respect to a particular company it finds to be no longer dumping to include authority to impose a condition that the partial revocation may be withdrawn (*i.e.*, the company may be reinstated) if dumping is resumed. To interpret the statute otherwise would permit the Department to abdicate its responsibility to ensure that injurious dumping is remedied by imposition of offsetting antidumping duties. Therefore, our determination to conduct this changed circumstances review to determine whether Kolon should be reinstated under the *Order* is supported by the statute and regulations. Additionally, as noted by both Kolon and the petitioner, conducting a changed circumstances review pursuant to section 751(b) of the Act to reinstate a company previously revoked from an antidumping duty order is consistent with the agency's practice. See *Sebacic Acid from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Reinstatement of the Antidumping Order* 70 FR 16218, March 30, 2005.

Moreover, we find Kolon's reliance on *Asahi* to support its assertion that the Department lacks legal authority to reinstate a company in an antidumping duty order is misplaced. The Court in *Asahi* was reviewing an earlier regulation (19 CFR 353.54(e)(1988)), which provided:

Before the Secretary may tentatively revoke a Finding or an Order or terminate a suspended investigation pursuant to paragraph (a) of this section, the parties who are subject to the revocation or the termination must agree in writing to an immediate suspension of liquidation and reinstatement of the Finding or Order or continuation of the investigation, as appropriate, if circumstances which indicate that the merchandise thereafter imported into the United States is being sold at less than fair value. Opportunity for interested parties to present views with respect to the tentative revocation will be provided.

19 CFR 353.54(e)(1988).

The Court in *Asahi* acknowledged that the purpose of the 1988 regulation was to discourage the resumption of dumping after revocation, and that there were policy concerns about having to

undertake an entirely new investigation. See *Asahi*, 727 F. Supp. at 628. The Court found the old regulation was so ambiguous as to make the standard of reinstatement conjectural. *Id.* However, the Court did not address whether reinstatement could be accomplished through an amendment to 19 CFR 353.54, or through a new regulatory provision. *Id.*

We find that our current regulation governing reinstatement (as did the earlier 1989 regulation in effect at the time of Kolon's revocation) addresses the concerns enumerated by the Court in *Asahi*. This regulation places exporters and producers which the Department has previously found to be dumping, on notice that they are subject to immediate reinstatement once they are revoked from an order, if the Secretary later concludes they have resumed dumping. 19 CFR 351.222(b)(2)(i)(B) and (e). Indeed, revoked companies agree in writing to immediate reinstatement upon a finding of resumed dumping. 19 CFR 351.222(b)(2)(i)(B) and 351.222(e)(1). The present regulation makes clear that reinstatement can only occur as long as any exporter or producer is subject to the order. Thus, the Commission's determination that subject merchandise sold at less than NV is injurious to the domestic industry continues to support application of antidumping duties to subject merchandise sold at less than NV.

Moreover, any guidance provided by *Asahi* must be read in light of general principles of administrative law. One such basic principle of administrative law is that an administering agency must abide by its own rules to safeguard expectations. Thus, section 351.222(b)(2)(i)(B) of the Department's regulations suggests that a partial revocation determination is not a dispositive administrative pronouncement. Such a conclusion logically follows from the terms of the regulation, which directs the Department to rescind its partial revocation determination and to reinstate the revoked company under the existing antidumping duty order. In the instant case, the order on PET film from Korea has not been revoked. The Department's partial revocation with respect to Kolon was expressly conditioned upon the possibility of reinstatement should dumping resume. The Department's regulation is reasonable because it imposes a reasonable condition upon partial revocation which is limited to circumstances under which the statute authorizes the Department to impose antidumping duties to remedy injurious

dumping of subject merchandise. Therefore, *Asahi* lends no support to Kolon's arguments.

Kolon's claim that the Department's reinstatement regulation has no statutory authority is without merit. Specifically, Kolon implies that the Act requires an injury determination by the Commission prior to the imposition of an order, and that, because the order on PET film from Korea has been partially revoked as to Kolon, a new petition must be filed with respect to Kolon, and separate affirmative determinations must be made by the Commission and the Department concerning injury and dumping. We find this argument unavailing. In the instant case, the Department made its final determination of dumping and the Commission made its final injury determination. *See Order*. Additionally, the antidumping duty order on PET film from Korea remains in place. Therefore, the Commission has found that dumping of PET film from Korea causes material injury to the domestic industry; that finding was undisturbed by the partial revocation of Kolon. Further, that revocation was premised on the absence of dumping rather than the absence of injury and was expressly conditioned on the possibility of reinstatement should dumping resume.

The partial revocation of the order with respect to Kolon did not nullify the validity of the underlying injury and less than fair value determinations that resulted in the issuance of an antidumping duty order which remains in force, particularly when the partial revocation is the result of behavior subsequent to those earlier determinations. The Commission's injury determination, furthermore, does not examine the injury caused by discrete companies, but rather the injury caused by all dumped exports originating in a particular exporting country. Even if one or more exporters in that country may have been revoked from the order on the basis of absence of dumping, all dumped exports of subject merchandise from that country continue to cause or threaten material injury, pursuant to the Commission's affirmative injury determination. Thus, unless all exporters are revoked from the order, the order continues to exist, as does the potential for reinstatement. Kolon itself agreed to such a reinstatement as a condition of its partial revocation, if the Department were to conclude that it has sold the merchandise at below NV. Thus, a new injury finding specific to Kolon is neither necessary nor appropriate for reinstatement pursuant to 19 CFR 351.222(h)(2)(i)(B).

In requesting revocation, Kolon filed a certification from a company official pursuant to the Department's regulations that it agree to the immediate reinstatement of the order, so long as any exporter or producer is subject to the order, if the Secretary concludes that it, subsequent to the revocation, sold PET film at less than NV. *See Revocation*. Several other companies remain subject to the antidumping duty order on PET film from Korea. The information submitted by Petitioners in their letters of July 19, 2006, September 20, 2006, and November 9, 2006 concerning Kolon's COP, and home market and U.S. sales activity, suggest Kolon might have resumed dumping subsequent to Kolon's revocation from the order. Petitioners allege underselling of PET film in the United States at prices between 29 percent and 72 percent below NV during the July 1, 2005, through June 30, 2006 period. Accordingly, the Department has properly determined to initiate a changed circumstances review to determine whether to reinstate Kolon in the order.

Moreover, Kolon's claim that it was never found by the Department to be dumping is also misplaced. First, Kolon dropped its court challenge to the first administrative review. Thus, Kolon's argument that the Department would have calculated a *de minimis* margin for Kolon for the first administrative review is speculation unsubstantiated by the record. More importantly, whether Kolon was or was not found to be dumping during the first administrative review is irrelevant to our basis for initiating a changed circumstances review. Petitioners have provided credible evidence that Kolon has resumed selling subject merchandise at prices below NV subsequent to its revocation from the Order. Moreover, Kolon voluntarily agreed to reinstatement in the order upon evidence that it had resumed dumping in the United States, provided that other companies remain subject to the *Order*. Presently, several companies remain subject to the *Order*. The standard for initiation of a changed circumstances review under section 751(b) of the Act is whether the request shows changed circumstances that warrant review. The Department finds that the Petitioners' changed circumstances review request, which suggests above *de minimis* dumping margins for Kolon, satisfies that standard.

Based on the foregoing, we find that Petitioners have provided sufficient evidence to initiate a changed circumstances review in which we will

determine whether Kolon should be reinstated within the order of PET film from Korea. However, as the Department has yet to make a finding that Kolon did, in fact, sell subject merchandise at below NV, we will not order any border measures at this time.

The Department will publish in the **Federal Register** a notice of preliminary results of changed circumstances review in accordance with 19 CFR 351.221(b)(4) and 351.221(c)(3)(i), which will set forth the Department's preliminary factual and legal conclusions. Pursuant to 19 CFR 351.221(b)(4)(ii), interested parties will have an opportunity to comment on the preliminary results. The Department will issue its final results of review in accordance with the time limits set forth in 19 CFR 351.216(e).

This notice is published in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b) of the Department's regulations.

Dated: December 27, 2006.

**Stephen J. Claeys,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E6-22642 Filed 1-4-07; 8:45 am]

BILLING CODE 3510-DS-S

## DEPARTMENT OF COMMERCE

### International Trade Administration

A-570-806

#### **Silicon Metal from the People's Republic of China: Notice of Correction of Continuation of Antidumping Duty Order**

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

**EFFECTIVE DATE:** January 5, 2007.

**FOR FURTHER INFORMATION CONTACT:** Michael Quigley or Juanita Chen, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4047 or (202) 482-1904, respectively.

#### **CORRECTION:**

On December 21, 2006, the Department of Commerce ("Department") published its continuation of the antidumping duty order on silicon metal from the People's Republic of China. *See Silicon Metal from the People's Republic of China: Continuation of Antidumping Duty Order*, 71 FR 76636 (December 21, 2006)