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DATE: June 3, 2013

**MEMORANDUM TO:** Paul Piquado  
Assistant Secretary  
for Import Administration

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

**SUBJECT:** Decision Memorandum for Preliminary Results and Rescission  
in Part of the 2011-2012 Antidumping Duty Administrative  
Review: Certain Lined Paper Products from the People's  
Republic of China

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## SUMMARY

The Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on certain lined paper products ("CLPP") from the People's Republic of China ("PRC"). The period of review ("POR") is September 1, 2011, through August 31, 2012.

## BACKGROUND

On September 28, 2006, the Department published in the *Federal Register* an antidumping duty order on certain lined paper products from the PRC.<sup>1</sup> On September 4, 2012, the Department issued a notice of opportunity to request an administrative review of antidumping and countervailing duty orders with August anniversary dates.<sup>2</sup> On September 30, 2012, the

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<sup>1</sup> See *Notice of Amended Final Determination of Sales at Less Than Fair Value: Certain Lined Paper Products from the People's Republic of China; Notice of Antidumping Duty Orders: Certain Lined Paper Products from India, Indonesia and the People's Republic of China; and Notice of Countervailing Duty Orders: Certain Lined Paper Products from India and Indonesia*, 71 FR 56949 (September 28, 2006) ("CLPP Order").

<sup>2</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 77 FR 53863 (September 4, 2012).



Department received a letter from Petitioner<sup>3</sup> to conduct an administrative review of Hwa Fuh Plastic Co., Ltd./Li Teng Plastics (Shenzhen) Co., Ltd. (“Hwa Fuh/Li Teng”); Shanghai Lian Li Paper Products Co., Ltd. (“Lian Li”); and Leo’s Quality Products Co., Ltd./Denmax Plastic Stationary Factory (“Leo’s/Denmax”). On October 31, 2012, we initiated an administrative review of the antidumping order on CLPP from the PRC covering the period September 1, 2011, through August 31, 2012, for three companies: Hwa Fuh/Li Teng, Lian Li, and Leo’s/Denmax.<sup>4</sup>

### Requests for Information

On November 2, 2012, the Department issued its non-market economy (“NME”) antidumping questionnaire to Leo’s/Denmax and Lian Li via e-mail, and to Hwa Fuh/Li Teng via UPS. The response due date for submitting separate rate certification and sections A, C & D questionnaire response was December 11, 2012, and the due date for submitting separate rate application was December 18, 2012.

### Lian Li

On December 11, 2012, Lian Li informed the Department that they did not have shipments of the subject merchandise to the United States during the POR. On January 31, 2013, we conducted an internal query of the U.S. Customs and Border Protection (“CBP”) entry data<sup>5</sup> with respect to Lian Li and found no entries from Lian Li during the POR. On April 11, 2013, the Department issued a no-shipment inquiry message to CBP requesting that CBP inform the Department if any CBP import officer has any contrary information and is suspending liquidation of entries of the merchandise under review which were made during the POR.<sup>6</sup> The Department did not receive notification from CBP indicating that there were any shipments by Lian Li during the POR. On April 25, 2013, the Department issued a “No-Shipment Memorandum” to and solicited comments from interested parties,<sup>7</sup> regarding Lian Li’s no-shipment claim. We received no comments from interested parties.

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<sup>3</sup> The petitioner is the Association of American School Paper Suppliers (“AASPS”) (hereinafter referred to as “Petitioner”). On April 1, 2013, Petitioner notified the Department that the membership of the AASPS had changed. Specifically, on March 31, 2013, substantially all of Mead Products LLC’s business was transferred to another company, ACCO Brands USA LLC. As a result of this change, the individual members of the AASPS are now the following companies: ACCO Brands USA LLC, Norcom Inc., and Top Flight, Inc. ACCO Brands USA LLC is a direct, wholly-owned subsidiary of ACCO Brands Corporation.

<sup>4</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 77 FR 65858 (October 31, 2012) (“*Initiation Notice*”).

<sup>5</sup> The internal query of the CBP entry data covers the following Harmonized Tariff Schedule of the United States (“HTSUS”) headings: 4810.22.5044, 4811.90.9050, 4820.10.2010, 4820.10.2020, 4820.10.2030, 4820.10.2040, 4820.10.2060, and 4820.10.4000, which are identified in the “Scope of the Order” section of previously published *Federal Register Notice*. See *Certain Lined Paper Products from the People’s Republic of China: Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 77 FR 61390 (October 9, 2012) (“*AR5 CLPP Final Results*”).

<sup>6</sup> The Department requested that CBP officers report the following information to us via ACE AD/CVD ACE Inquiry System within 10 days of the date of the message: message number, AD/CVD case number, entry number(s), date of entry, manufacturer name and address, shipper/seller name and address, exporter name and address, and importer name and address.

<sup>7</sup> See Memorandum to File through Eric Greynolds, Program Manager, Office 8, AD/CVD Operations, from Cindy Robinson, Senior International Trade Compliance Analyst, Office 8, titled “Customs and Border Protection (“CBP”) Data for Corroboration of Claims of No Shipments,” dated April 25, 2013 (“No-Shipment Memorandum”).

## Leo's/Denmax

On November 3, 2012, Leo's/Denmax responded to the Department's antidumping questionnaire by e-mail stating that it "did not have any exports, sales, or entries, either directly or indirectly of line paper products from China to United States for the period of review." Leo/Denmax simply sent this short e-mail message, without any attached document on company letterhead or any required certifications. We responded to Leo's/Denmax via e-mail on November 7, 2012, informing it, that the Department does not accept any submission via e-mail because 19 CFR 351.303 expressly requires that all official documents be filed in our electronic IA ACCESS database. We also highlighted that, the Department's cover letter of the questionnaire clearly states that all submissions for all proceedings must be filed electronically using the "IA ACCESS" on the IA ACCESS website (<http://iaaccess.trade.gov>).<sup>8</sup>

Further, in the e-mail to Leo's/Denmax,<sup>9</sup> we repeated the Department's certification requirements and noted resources available online to assist Leo's/Denmax to comply with the electronic filing procedures.<sup>10</sup> In the cover letter of the questionnaire, the Department indicated that the due date for submitting sections A, C, and D response was December 11, 2012. However, Leo's/Denmax did not submit a no-shipment statement in a formal letter electronically via IA Access by the specified deadlines.

## Hwa Fuh

As noted above, we sent the questionnaire to Hwa Fuh/Li Teng through UPS on November 2, 2012. UPS attempted to deliver the questionnaire to Hwa Fuh/Li Teng to the address petitioner provided in its 2011-2-12 administrative review request letter, but the delivery was unsuccessful. The questionnaire was subsequently returned to the Department by UPS on November 14, 2012, due to incorrect address.<sup>11</sup>

## **SCOPE OF THE ORDER**

The scope of this order includes certain lined paper products, typically school supplies (for purposes of this scope definition, the actual use of or labeling these products as school supplies or non-school supplies is not a defining characteristic) composed of or including paper that incorporates straight horizontal and/or vertical lines on ten or more paper sheets (there shall be no minimum page requirement for looseleaf filler paper) including but not limited to such products as single- and multi-subject notebooks, composition books, wireless notebooks,

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<sup>8</sup> In the 2010 – 2011 review we sent a letter to Tilly Shiang, General Manager on June 11, 2012 explaining that, because Leo's/Denmax's letter claiming that it made no shipments was improperly and untimely submitted, it was rejected and returned by the Department. *See AR5 CLPP Final Results*. Despite advising Leo's/Denmax of our requirements under 19 CFR 351.303(b)(2) regarding the proper format of filing, and referring to our notice in which we expressly state that all submissions must be filed electronically, in this review Leo's/Denmax continued to disregard the Department's filing requirements.

<sup>9</sup> *See* Memorandum to File through Eric Greynolds, Program Manager, Office 8, AD/CVD Operations, from Cindy Robinson, Senior International Trade Compliance Analyst, Office 8, titled "Confirmation of Delivery Email Record for Leo/Denmax and UPS Non-delivery Record for Hwa Fuh Regarding the Antidumping Questionnaire" ("Delivery Memorandum") dated April 25, 2013, at Attachment 1 for the e-mail record.

<sup>10</sup> *Id.*

<sup>11</sup> *See* Delivery Memorandum at Attachment 2 for the UPS' delivery record.

looseleaf or glued filler paper, graph paper, and laboratory notebooks, and with the smaller dimension of the paper measuring 6 inches to 15 inches (inclusive) and the larger dimension of the paper measuring 8-3/4 inches to 15 inches (inclusive). Page dimensions are measured size (not advertised, stated, or "tear-out" size), and are measured as they appear in the product (*i.e.*, stitched and folded pages in a notebook are measured by the size of the page as it appears in the notebook page, not the size of the unfolded paper). However, for measurement purposes, pages with tapered or rounded edges shall be measured at their longest and widest points. Subject lined paper products may be loose, packaged or bound using any binding method (other than case bound through the inclusion of binders board, a spine strip, and cover wrap). Subject merchandise may or may not contain any combination of a front cover, a rear cover, and/or backing of any composition, regardless of the inclusion of images or graphics on the cover, backing, or paper. Subject merchandise is within the scope of this order whether or not the lined paper and/or cover are hole punched, drilled, perforated, and/or reinforced. Subject merchandise may contain accessory or informational items including but not limited to pockets, tabs, dividers, closure devices, index cards, stencils, protractors, writing implements, reference materials such as mathematical tables, or printed items such as sticker sheets or miniature calendars, if such items are physically incorporated, included with, or attached to the product, cover and/or backing thereto.

Specifically excluded from the scope of this order are:

- unlined copy machine paper;
- writing pads with a backing (including but not limited to products commonly known as "tablets," "note pads," "legal pads," and "quadrille pads"), provided that they do not have a front cover (whether permanent or removable). This exclusion does not apply to such writing pads if they consist of hole-punched or drilled filler paper;
- three-ring or multiple-ring binders, or notebook organizers incorporating such a ring binder provided that they do not include subject paper;
- index cards;
- printed books and other books that are case bound through the inclusion of binders board, a spine strip, and cover wrap;
- newspapers;
- pictures and photographs;
- desk and wall calendars and organizers (including but not limited to such products generally known as "office planners," "time books," and "appointment books");
- telephone logs;
- address books;
- columnar pads & tablets, with or without covers, primarily suited for the recording of written numerical business data;
- lined business or office forms, including but not limited to: pre-printed business forms, lined invoice pads and paper, mailing and address labels, manifests, and shipping log books;
- lined continuous computer paper;
- boxed or packaged writing stationary (including but not limited to products commonly known as "fine business paper," "parchment paper," and "letterhead"), whether or not containing a lined header or decorative lines;

- Stenographic pads (“steno pads”), Gregg ruled (“Gregg ruling” consists of a single- or double-margin vertical ruling line down the center of the page. For a six-inch by nine-inch stenographic pad, the ruling would be located approximately three inches from the left of the book.), measuring 6 inches by 9 inches.

Also excluded from the scope of this order are the following trademarked products:

- Fly™ lined paper products: A notebook, notebook organizer, loose or glued note paper, with papers that are printed with infrared reflective inks and readable only by a Fly™ pen-top computer. The product must bear the valid trademark Fly™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- Zwipes™: A notebook or notebook organizer made with a blended polyolefin writing surface as the cover and pocket surfaces of the notebook, suitable for writing using a specially-developed permanent marker and erase system (known as a Zwipes™ pen). This system allows the marker portion to mark the writing surface with a permanent ink. The eraser portion of the marker dispenses a solvent capable of solubilizing the permanent ink allowing the ink to be removed. The product must bear the valid trademark Zwipes™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- FiveStar®Advance™: A notebook or notebook organizer bound by a continuous spiral, or helical, wire and with plastic front and rear covers made of a blended polyolefin plastic material joined by 300 denier polyester, coated on the backside with PVC (poly vinyl chloride) coating, and extending the entire length of the spiral or helical wire. The polyolefin plastic covers are of specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). Integral with the stitching that attaches the polyester spine covering, is captured both ends of a 1" wide elastic fabric band. This band is located 2-3/8" from the top of the front plastic cover and provides pen or pencil storage. Both ends of the spiral wire are cut and then bent backwards to overlap with the previous coil but specifically outside the coil diameter but inside the polyester covering. During construction, the polyester covering is sewn to the front and rear covers face to face (outside to outside) so that when the book is closed, the stitching is concealed from the outside. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. The flexible polyester material forms a covering over the spiral wire to protect it and provide a comfortable grip on the product. The product must bear the valid trademarks FiveStar®Advance™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).
- FiveStar Flex™: A notebook, a notebook organizer, or binder with plastic polyolefin front and rear covers joined by 300 denier polyester spine cover extending the entire length of the spine and bound by a 3-ring plastic fixture. The polyolefin plastic covers are of a specific thickness; front cover is 0.019 inches (within normal manufacturing tolerances) and rear cover is 0.028 inches (within normal manufacturing tolerances). During construction, the polyester covering is sewn to the front cover face to face

(outside to outside) so that when the book is closed, the stitching is concealed from the outside. During construction, the polyester cover is sewn to the back cover with the outside of the polyester spine cover to the inside back cover. Both free ends (the ends not sewn to the cover and back) are stitched with a turned edge construction. Each ring within the fixture is comprised of a flexible strap portion that snaps into a stationary post which forms a closed binding ring. The ring fixture is riveted with six metal rivets and sewn to the back plastic cover and is specifically positioned on the outside back cover. The product must bear the valid trademark FiveStar Flex™ (products found to be bearing an invalidly licensed or used trademark are not excluded from the scope).

On September 23, 2011, the Department revoked, in part, the AD order with respect to FiveStar® Advance™ notebooks and notebook organizers without PVC coatings.<sup>12</sup>

Merchandise subject to this order is typically imported under headings 4810.22.5044, 4811.90.9050, 4820.10.2010, 4820.10.2020, 4820.10.2030, 4820.10.2040, 4820.10.2060, and 4820.10.4000 of the HTSUS. The HTSUS headings are provided for convenience and customs purposes; however, the written description of the scope of this order is dispositive.

## **DISCUSSION OF THE METHODOLOGY**

### Rescission in Part of This Administrative Review

#### Hwa Fuh/Li Teng

As noted above, the Department was unable to find correct addresses for Hwa Fu/Li Teng. Specifically, the UPS record shows that UPS made several attempts to deliver the Department's questionnaire to Hwa Fu/Li Teng, but was unable to find a valid address for the company.<sup>13</sup> Therefore, the Department intends to rescind the review with respect to Hwa Fuh/Li Teng, in accordance with our practice.<sup>14</sup>

#### Lian Li

With regard to Lian Li's claim of no shipments, we conducted an internal query of the CBP entry to confirm Lian Li's claim of no shipments. Additionally, we sent an inquiry to CBP asking if any CBP office had any information contrary to the no shipments claim and requesting CBP alert the Department of any such information within ten days of receiving our inquiry. CBP received our inquiry on April 11, 2013. Based on Lian Li's assertion of no shipments and confirmation of

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<sup>12</sup> See *Certain Lined Paper Products From People's Republic of China: Final Results of Antidumping Duty Changed Circumstances Review and Revocation, in Part*, 76 FR 60803 (September 30, 2011).

<sup>13</sup> See Delivery Memorandum at Attachment 2.

<sup>14</sup> See 19 CFR 351.213(d)(3) and *Certain Steel Concrete Reinforcing Bars from Turkey: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 26,455, 26,457 (May 5, 2006) (unchanged in *Certain Steel Concrete Reinforcing Bars From Turkey: Final Results and Rescission of Antidumping Duty Administrative Review in Part*, 71 FR 65082 (November 7, 2006)); see also *Certain Frozen Warmwater Shrimp from India: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 10658, (March 9, 2007) (unchanged in *Certain Frozen Warmwater Shrimp from India: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 52055 (September 12, 2007)).

that claim by CBP data, we preliminarily determine that Lian Li had no sales to the United States during the POR.

In our October 24, 2011, notice “*Assessment of Antidumping Duties*,” we explained that, for entries that are not reported in the reviewed company’s U.S. sales databases submitted to the Department during an administrative review, or otherwise determined not covered by the review (*i.e.*, the reviewed exporter claims no shipments), the Department will instruct CBP to liquidate such entries at the NME-wide rate as opposed to the company-specific rate declared by the importer at the time of entry, thereby ensuring that this practice in NME proceedings will be consistent with the application of the same liquidation practice in market-economy (“ME”) proceedings.<sup>15</sup> Therefore, we find it appropriate in this case to instruct CBP to liquidate any existing entries of merchandise produced by Lian Li and exported by other parties at the PRC-wide entity rate in the event we continue to find at the time of our final results that Lian Li had no shipments of subject merchandise from the PRC during the POR.<sup>16</sup> In addition, the Department finds that it is more consistent with the clarifications not to rescind the review in part in these circumstances but, rather, to complete the review with respect to Lian Li and issue appropriate instructions to CBP based on the final results of the review.<sup>17</sup>

### Separate Rates

Pursuant to section 771(18)(C) of the Tariff Act of 1930, as amended (“the Act”), a designation of a country as an NME remains in effect until it is revoked by the Department. Accordingly, there is a rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single antidumping duty rate.<sup>18</sup> In the *Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME proceedings.<sup>19</sup> It is the Department’s policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test

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<sup>15</sup> See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011) (“*Assessment of Antidumping Duties*”); see also *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

<sup>16</sup> See, e.g., *Certain Frozen Warmwater Shrimp From the People’s Republic of China: Preliminary Results and Preliminary Partial Rescission of Fifth Antidumping Duty Administrative Review*, 76 FR 8338 (February 14, 2011) (unchanged in *Administrative Review of Certain Frozen Warmwater Shrimp From the People’s Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 76 FR 51940 (August 19, 2011)) (“*Warmwater Shrimp From PRC*”).

<sup>17</sup> See the Assessment Rates section of the *Federal Register* notice for these preliminary results.

<sup>18</sup> See *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People’s Republic of China*, 71 FR 53079, 53082 (September 8, 2006); *Final Determination of Sales at Less Than Fair Value and Final Partial Affirmative Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof From the People’s Republic of China*, 71 FR 29303, 29307 (May 22, 2006).

<sup>19</sup> See *Initiation Notice*.

established in *Sparklers*,<sup>20</sup> as amplified by *Silicon Carbide*.<sup>21</sup> However, if the Department determines that a company is wholly foreign-owned or located in an ME, then a separate rate analysis is not necessary to determine whether it is independent from government control.<sup>22</sup>

In the immediately preceding 2010-2011 review,<sup>23</sup> Leo's/Denmax was found to be a part of the PRC-wide entity. In this review, Leo's/Denmax failed to provide information within the deadlines established, in the form and manner requested by the Department to demonstrate that it operates free from government control. Therefore it is not qualified for a separate rate. See "PRC-Wide Entity" discussion below for details. Accordingly, the Department preliminarily finds Leo's/Denmax to be part of the PRC-wide entity.

#### The PRC-Wide Entity and Use of Adverse Facts Available ("AFA")

Sections 776(a)(1) and (2) of the Act provide that the Department shall apply "facts otherwise available" if, *inter alia*, necessary information is not on the record or an interested party or any other person: (A) withholds information that has been requested; (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; (C) significantly impedes a proceeding; or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits, subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department "shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority" if the information is timely, can be verified, is not so incomplete that it cannot serve as a reliable basis, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information if it can do so without undue difficulties.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as adverse facts available information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

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<sup>20</sup> See *Final Determination of Sales at Less Than Fair Value: Sparklers From the People's Republic of China ("Sparklers")*, 56 FR 20588 (May 6, 1991).

<sup>21</sup> See *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide From the People's Republic of China ("Silicon Carbide")*, 59 FR 22585 (May 2, 1994).

<sup>22</sup> See, e.g., *Final Results of Antidumping Duty Administrative Review: Petroleum Wax Candles From the People's Republic of China*, 72 FR 52355, 52356 (September 13, 2007).

<sup>23</sup> See *AR5 CLPP Final Results*.

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as “information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.”<sup>24</sup> “Corroborate” means that the Department will satisfy itself that the secondary information to be used has probative value.<sup>25</sup> To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA explains, however, that the Department need not prove that the selected facts available are the best alternative information.<sup>26</sup>

In this review, as stated above, the Department issued antidumping questionnaire to Leo’s/Denmax on November 2, 2012, and Leo’s/Denmax responded by e-mail the next day, stating that it “did not have any exports, sales, or entries, either directly or indirectly of line paper products from China to United States for the period of review.” We informed the company, via e-mail on November 7, 2012, that the Department does not accept for the record of the review any submission via e-mail. We reminded it that all submissions for all proceedings must be filed electronically using the “IA ACCESS” website (<http://iaaccess.trade.gov>).<sup>27</sup> We also provided resources available on-line to assist Leo’s/Denmax to comply with the electronic filing procedures. Furthermore, we repeated the Department’s certification requirements in the e-mail. However, Leo’s/Denmax did not resubmit its no-shipment statement in a formal letter electronically, nor did Leo’s/Denmax further contact the Department or request an extension by December 11, 2012,<sup>28</sup> the due date indicated in the cover letter of the Department’s questionnaire for submitting its section A-D response.

Because Leo’s/Denmax failed to provide information within the deadlines established, in the form and manner requested by the Department, pursuant to section 776(a)(2)(B) of the Act, Leo’s/Denmax has not demonstrated that it operates free from government. Thus, we preliminarily determination that Leo’s/Denmax does not qualify for a separate rate, and therefore continues to be a part of the PRC-wide entity, thereby bringing the PRC-wide entity under review. The PRC-wide entity did not respond to our requests for information. Because the PRC-wide entity did not respond to our requests for information, we find it necessary under section 776(a)(2) of the Act to use facts available as the basis for these preliminary results. Because the PRC-wide entity provided no information, we determine that sections 782(d) and (e) of the Act are not relevant to our analysis. We further find that the PRC-wide entity failed to respond to the Department’s requests for information and, therefore, did not cooperate to the best of its ability. Therefore, because the PRC-wide entity did not cooperate to the best of its ability in the proceeding, the Department finds it necessary to use an adverse inference in making its determination, pursuant to section 776(b) of the Act.

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<sup>24</sup> See The Statement of Administrative Action, reprinted in H.R. Doc. No. 103–216, at 870 (1994) (“SAA”) at 870.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*, at 869.

<sup>27</sup> See footnote 8 and 9 above for details.

<sup>28</sup> See the Delivery Memorandum at Attachment 1 for the e-mail record.

### Selection of the Adverse Facts Available Rate

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any other information placed on the record. Because of the PRC-wide entity's failure to cooperate in this administrative review, we have preliminarily assigned the PRC-wide entity an AFA rate of 258.21 percent, which is the PRC-wide rate determined in the investigation of CLPP from the PRC, which is the highest rate on the record of all segments of this proceeding.<sup>29</sup> As explained below, this rate has been corroborated.

### Corroboration of Facts Available

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall to the extent practicable, corroborate that information from independent sources that are reasonably at the Department's disposal. Secondary information is described in the SAA as "information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise."<sup>30</sup> The SAA explains that "corroborate" means to determine that the information used has probative value. The Department has determined that to have probative value, information must be reliable and relevant.<sup>31</sup> The SAA also explains that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation.<sup>32</sup>

For these preliminary results, we are continuing to apply as AFA the highest and only rate for the PRC-wide entity from any segment of this administrative proceeding, which is 258.21 percent from the *CLPP Order*. This rate was calculated based on information contained in the petition, which was corroborated for the final determination.<sup>33</sup> No additional information has been presented in the current review which calls into question the reliability of the information and the Department's corroboration. In fact, the Department's corroboration of this PRC rate was affirmed by the Court of International Trade ("CIT") decision in *The Watanabe Group v United States*,<sup>34</sup> where the CIT found that with no evidence specific to the review and no evidence

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<sup>29</sup> See *CLPP Order*, and *Notice of Final Determination of Sales at Less Than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People's Republic of China*, 71 FR 53079 (September 8, 2006) ("*CLPP PRC Final Determination*").

<sup>30</sup> See SAA at 870.

<sup>31</sup> See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996) (unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997)).

<sup>32</sup> See SAA at 870; see also *Notice of Final Determination of Sales at Less Than Fair Value: Live Swine From Canada*, 70 FR 12181, 12183 (March 11, 2005).

<sup>33</sup> See *CLPP PRC Final Determination*, and accompanying Issues and Decision Memorandum at 38.

<sup>34</sup> See *The Watanabe Group v United States*, Lexis 144; slip op. 2010-139 (Ct. Int'l Trade December 22, 2010).

questioning the prior corroboration of the PRC-wide rate, the Department may rely on the corroborated rate from an earlier segment of the proceeding because doing so is based on a reasonable inference from the current record.

Therefore, the Department finds that the information continues to be reliable and relevant and therefore the rate is corroborated.

## CONCLUSION

We recommend applying the above methodology for these preliminary results.

✓  
Agree

\_\_\_\_\_  
Disagree

*Paul Piquado*  
Paul Piquado  
Assistant Secretary  
for Import Administration

3 JUNE 2013  
Date

U.S. DEPARTMENT OF COMMERCE  
INTERNATIONAL TRADE ADMINISTRATION

Date  
05/31/2013

**CONCURRENCE RECORD**  
(Prescribed by ITA A.I. 8-1)

ROUTING PURPOSE SYMBOLS  
(PRS)  
C-CONURRENCES  
S-SIGNATURE

SUBJECT OF DOCUMENT: *PRE*  
Lined Paper Products (A-570-901) AD Review 09/01/2011-08/31/2012 Prelim & Rescission

NAME AND OFFICE OF ORIGINATOR <b>Cindy Robinson; Jennifer Moats</b> AD/CVD Office 8	TELEPHONE NUMBER ; 202-482-5047	DEADLINE DATE  06/03/2013
	INITIALS	

SUBMITTED TO	RPS	INITIALS	DATE	SUBMITTED TO	RPS	INITIALS	DATE
NAME: Eric Greynolds	C		05/10/13	NAME: CMarsh	C	<i>CM</i>	<i>5/31/13</i>
OFFICE: OpPM				OFFICE: DAS/Ops			
NAME: George Kivork	C	By Email	05/20/13	NAME: PPiquado	C	<i>PP</i>	<i>6/3/13</i>
OFFICE: Staff Legal				OFFICE: AS/IA			
NAME: Donna Kinsella	C	By Email	05/20/13	NAME:	C		
OFFICE: Policy				OFFICE:			
NAME: Melissa Skinner	C		05/20/13	NAME:	C		
OFFICE: OpOD				OFFICE:			
NAME: David Mason	C		05/31/13	NAME:			
OFFICE: Legal				OFFICE:			
NAME: Edward Yang	C		05/31/13	NAME:	C		
OFFICE: NMESEC				OFFICE:			

ADDITIONAL INFORMATION OR SPECIAL INSTRUCTIONS: (Continue on reverse if necessary)

Control Number: **IA-2013-00211**

