

Manufacturer/Exporter	Weighted-Average Margin (percent)
Dear Year Brothers Mfg. Co., Ltd. ....	0.00
Roung Shu Industry Corporation Shienq Huong Enterprise Co., Ltd./Hsien Chan Enterprise Co., Ltd./Novelty Handicrafts Co., Ltd. ....	4.54
All Others .....	0.00
	4.54

For Dear Year and Shienq Huong, because their estimated weighted-average preliminary dumping margins are zero, we are not directing CBP to suspend liquidation of either company's entries.

#### "All Others" Rate

Section 735(c)(5)(A) of the Act provides that the estimated "All Others" rate shall be an amount equal to the weighted average of the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely under section 776 of the Act.

#### Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties to 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 the Department's preliminary affirmative determination of sales at LTFV. If the Department's final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of narrow woven ribbons from Taiwan are materially injuring, or threatening material injury to, the U.S. industry (*see* section 735(b)(2) of the Act). As we are postponing the deadline for our final determination to 135 days from the date of the publication of this preliminary determination, the ITC will make its final determination no later than 45 days after our final determination.

#### Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department related to sales issues no later than seven days after the date of the issuance of the last sales verification report

issued in this proceeding; the case briefs related to cost of production issues may be submitted no later than seven days after the date of issuance of the last cost verification report issued in this proceeding. *See* 19 CFR 351.309(c). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs. *See* 19 CFR 351.309(d). 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.

In accordance with section 774 of the Act, the Department will hold a public hearing, if timely requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a timely request for a hearing is made in this investigation, we intend to hold the hearing two days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and in a room to be determined. *See* 19 CFR 351.310. Parties should confirm by telephone, the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, oral presentations will be limited to issues raised in the briefs.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: February 4, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-952]

#### Narrow Woven Ribbons with Woven Selvage from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

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

**EFFECTIVE DATE:** February 18, 2010.

**SUMMARY:** The Department of Commerce (the "Department") preliminarily determines that narrow woven ribbons with woven selvage ("narrow woven ribbons") from the People's Republic of China ("PRC") are being, or are 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 dumping margins are shown in the "Preliminary Determination" section of this notice. Interested parties are invited to comment on the preliminary determination.

**FOR FURTHER INFORMATION CONTACT:** Zhulietta Willbrand or Karine Gziryan, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3147 and (202) 482-4081, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On July 9, 2009, the Department received petitions concerning imports of narrow woven ribbons from the PRC and Taiwan filed in proper form by Berwick Offray LLC and its wholly-owned subsidiary Lion Ribbon Company, Inc. (collectively, "Petitioner"). *See Petitions for the Imposition of Antidumping and Countervailing Duties on Narrow Woven Ribbons with Woven Selvage from the People's Republic of China and Taiwan*, dated July 9, 2009 (the "Petition"). The Department initiated an antidumping duty investigation of narrow woven ribbons from the PRC and Taiwan on July 29, 2009. *See Narrow Woven Ribbons with Woven Selvage from the People's Republic of China and Taiwan: Initiation of Antidumping Duty Investigations*, 74 FR 39291 (August 6, 2009) ("Initiation Notice").

In the *Initiation Notice*, the Department stated that it intended to select PRC respondents based on quantity and value ("Q&V")

questionnaires. *See Initiation Notice*, 74 FR at 39296. On July 30, 2009, the Department requested Q&V information from the 86 companies identified by Petitioner in the Petition as potential producers or exporters of narrow woven ribbons from the PRC. *See Letter from Robert Bolling, Program Manager, AD/CVD Operations, Office 4, to All Interested Parties, "Antidumping Duty Investigation of Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China: Quantity and Value Questionnaire" (July 30, 2009).* Additionally, the Department posted the Q&V questionnaire for this investigation on its website at <http://ia.ita.doc.gov/ia-highlights-and-news.html>. The Department received timely responses to its Q&V questionnaire from the following 19 companies: Beauty Horn Investment Limited ("Beauty Horn"); Billion Trend International Ltd.; Dongguan Yi Sheng Decoration Co., Ltd.; Fujian Rongshu Industry Co., Ltd. ("Fujian Rongshu"); Guangzhou Complacent Weaving Co., Ltd. ("Guangzhou Complacent"); Ningbo Huarui Import & Export Co., Ltd.; Ningbo Jinfeng Thread & Ribbon Co. Ltd.; Ningbo Jintian Import & Export Co., Ltd. ("Ningbo Jintian"); Ningbo MH Industry Co., Ltd. ("Ningbo MH"); Ningbo V.K. Industry & Trading Co., Ltd. ("Ningbo V.K."); Stribbons (Guangzhou) Ltd. ("Stribbons"); Stribbons (Nan Yang) Ltd.; Tensen International Trading Ltd.; Tianjin Sun Ribbon Co., Ltd. ("Sun Ribbon"); Weifang Dongfang Ribbon Weaving Co., Ltd. ("Weifang Dongfang"); Weifang Yu Yuan Textile Co., Ltd. ("Weifang Yu Yuan"); Xiamen Yi He Textile Co., Ltd. ("Xiamen Yi He"); Yangzhou Bestpak Gifts & Crafts Co., Ltd. ("Yangzhou Bestpak"); and Yama Ribbons and Bows Co., Ltd. ("Yama Ribbons"). *See Memorandum from Maisha Cryor, International Trade Analyst, AD/CVD Operations, Office 4, to John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Respondent Selection in the Antidumping Investigation of Narrow Woven Ribbons With Woven Selvedge from the People's Republic of China" (September 11, 2009) ("Respondent Selection Memorandum").*

On August 18, 2009, we received comments from Petitioner regarding product characteristics. On August 25, 2009, we received rebuttal comments from Shienq Huong Enterprise Co., Ltd. ("Shienq Huong") regarding product characteristics. On September 3, 2009, we received additional comments from Petitioner regarding product

characteristics. On September 9, 2009, we received additional rebuttal comments from Shienq Hong. On September 21, 2009, we received additional comments from Petitioner regarding product characteristics. On September 24, 2009, the Department released revised product characteristics. On October 30, 2009, Petitioner submitted comments on the Department's revised product characteristics.

On September 1, 2009, the International Trade Commission ("ITC") preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of narrow woven ribbons from the PRC and Taiwan. *See Narrow Woven Ribbons With Woven Selvedge From China and Taiwan, Investigation Nos. 701-TA-467 and 731-TA-1164-1165 (Preliminary), 74 FR 46224 (September 8, 2009).*

On September 11, 2009, the Department selected Yama Ribbons and Ningbo Jintian as mandatory respondents. *See Respondent Selection Memorandum.* On September 11, 2009, the Department issued antidumping questionnaires to the mandatory respondents (*i.e.*, Yama Ribbons and Ningbo Jintian). Yama Ribbons submitted timely responses to sections A through C of the Department's antidumping questionnaire. However, Ningbo Jintian failed to submit responses to any section of the Department's antidumping questionnaires.

Between September 23, 2009, and October 5, 2009, we received timely filed separate-rate applications from the following 12 companies: Beauty Horn; Fujian Rongshu; Guangzhou Complacent; Ningbo MH; Ningbo V.K.; Stribbons; Sun Ribbon; Dongguan Yi Sheng Decoration Co., Ltd. and Sun Rich (Asia) Limited (collectively "Sun Rich"); Weifang Dongfang; Weifang Yu Yuan; Xiamen Yi He; and Yangzhou Bestpak.

The Department issued supplemental questionnaires to and received responses from Yama Ribbons, Beauty Horn, Fujian Rongshu, Guangzhou Complacent, Ningbo MH, Ningbo V.K., Stribbons, Sun Ribbon, Sun Rich, Weifang Dongfang, Weifang Yu Yuan, and Xiamen Yi He between November 2009 and January 2010. From October 2009 through January 2010, Petitioner submitted comments to the Department regarding Yama Ribbons' responses to sections A, C, and D of the antidumping questionnaire.

On October 7, 2009, the Department released a letter to interested parties which listed potential surrogate

countries and invited interested parties to comment on surrogate country and surrogate value ("SV") selection. *See Letter from Robert Bolling, Program Manager, AD/CVD Operations, Office 4, to All Interested Parties, "Antidumping Duty Investigation of Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China" (October 7, 2009).* On October 21, 2009, Petitioner submitted comments<sup>1</sup> on the appropriate surrogate country. No other interested parties commented on the selection of a surrogate country. For a detailed discussion of the selection of the surrogate country, *see "Surrogate Country" section below.*

On October 30, 2009, Petitioner made a request for a 50-day postponement of the preliminary determination. On November 19, 2009, pursuant to section 733(c) of the Act and 19 CFR 351.205(f)(1), the Department postponed this preliminary determination by fifty days. *See Narrow Woven Ribbons With Woven Selvedge From the People's Republic of China and Taiwan: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 74 FR 59962 (November 19, 2009).

On December 7, 2009, and December 14, 2009, Yama Ribbons submitted publicly available SV information in response to specific requests for information by the Department. No other party submitted SV information.

#### Period of Investigation

The period of investigation ("POI") is January 1, 2009, through June 30, 2009. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, July, 2009). *See 19 CFR 351.204(b)(1).*

#### Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2) of the Act, on January 21, 2009, and January 29, 2010, Yama Ribbons requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days. In the same submissions, Yama Ribbons agreed that the Department may extend the application of the provisional measures prescribed under 19 CFR 351.210(e)(2) until the date of the final determination. Because our preliminary determination is affirmative, and the respondent requesting an extension of the final determination, and an extension of the provisional measures,

<sup>1</sup> *See Letter from Petitioner to the Secretary of Commerce, "Narrow Woven Ribbons With Woven Selvedge From China: Petitioner's Comments On Surrogate Country Selection" (October 21, 2009).*

accounts for a significant proportion of exports of the merchandise under consideration, and no compelling reasons for denial exist, we are extending the due date for the final determination by 60 days. Suspension of liquidation will be extended accordingly.

### Scope of Investigation

The merchandise subject to the investigation is narrow woven ribbons with woven selvedge, in any length, but with a width (measured at the narrowest span of the ribbon) less than or equal to 12 centimeters, composed of, in whole or in part, man-made fibers (whether artificial or synthetic, including but not limited to nylon, polyester, rayon, polypropylene, and polyethylene terephthalate), metal threads and/or metalized yarns, or any combination thereof. Narrow woven ribbons subject to the investigation may:

- also include natural or other non-man-made fibers;
- be of any color, style, pattern, or weave construction, including but not limited to single-faced satin, double-faced satin, grosgrain, sheer, taffeta, twill, jacquard, or a combination of two or more colors, styles, patterns, and/or weave constructions;
- have been subjected to, or composed of materials that have been subjected to, various treatments, including but not limited to dyeing, printing, foil stamping, embossing, flocking, coating, and/or sizing;
- have embellishments, including but not limited to appliqué, fringes, embroidery, buttons, glitter, sequins, laminates, and/or adhesive backing;
- have wire and/or monofilament in, on, or along the longitudinal edges of the ribbon;
- have ends of any shape or dimension, including but not limited to straight ends that are perpendicular to the longitudinal edges of the ribbon, tapered ends, flared ends or shaped ends, and the ends of such woven ribbons may or may not be hemmed;
- have longitudinal edges that are straight or of any shape, and the longitudinal edges of such woven ribbon may or may not be parallel to each other;
- consist of such ribbons affixed to like ribbon and/or cut-edge woven ribbon, a configuration also known as an “ornamental trimming;”
- be wound on spools; attached to a card; hanked (*i.e.*, coiled or bundled); packaged in boxes, trays or bags; or configured as skeins,

- balls, bateaus or folds; and/or
- be included within a kit or set such as when packaged with other products, including but not limited to gift bags, gift boxes and/or other types of ribbon.

Narrow woven ribbons subject to the investigation include all narrow woven fabrics, tapes, and labels that fall within this written description of the scope of this investigation.

Excluded from the scope of the investigation are the following:

- (1) formed bows composed of narrow woven ribbons with woven selvedge;
- (2) “pull-bows” (*i.e.*, an assemblage of ribbons connected to one another, folded flat and equipped with a means to form such ribbons into the shape of a bow by pulling on a length of material affixed to such assemblage) composed of narrow woven ribbons;
- (3) narrow woven ribbons comprised at least 20 percent by weight of elastomeric yarn (*i.e.*, filament yarn, including monofilament, of synthetic textile material, other than textured yarn, which does not break on being extended to three times its original length and which returns, after being extended to twice its original length, within a period of five minutes, to a length not greater than one and a half times its original length as defined in the Harmonized Tariff Schedule of the United States (HTSUS), Section XI, Note 13) or rubber thread;
- (4) narrow woven ribbons of a kind used for the manufacture of typewriter or printer ribbons;
- (5) narrow woven labels and apparel tapes, cut-to-length or cut-to-shape, having a length (when measured across the longest edge-to-edge span) not exceeding 8 centimeters;
- (6) narrow woven ribbons with woven selvedge attached to and forming the handle of a gift bag;
- (7) cut-edge narrow woven ribbons formed by cutting broad woven fabric into strips of ribbon, with or without treatments to prevent the longitudinal edges of the ribbon from fraying (such as by merrowing, lamination, sonobonding, fusing, gumming or waxing), and with or without wire running lengthwise along the longitudinal edges of the ribbon;
- (8) narrow woven ribbons comprised at least 85 percent by weight of threads having a denier of 225 or higher;
- (9) narrow woven ribbons constructed from pile fabrics (*i.e.*, fabrics with a surface effect formed by tufts or loops of yarn that stand up from the body of the fabric);
- (10) narrow woven ribbon affixed (including by tying) as a decorative detail to non-subject merchandise, such

as a gift bag, gift box, gift tin, greeting card or plush toy, or affixed (including by tying) as a decorative detail to packaging containing non-subject merchandise;

(11) narrow woven ribbon that is (a) affixed to non-subject merchandise as a working component of such non-subject merchandise, such as where narrow woven ribbon comprises an apparel trimming, book marker, bag cinch, or part of an identity card holder, or (b) affixed (including by tying) to non-subject merchandise as a working component that holds or packages such non-subject merchandise or attaches packaging or labeling to such non-subject merchandise, such as a “belly band” around a pair of pajamas, a pair of socks or a blanket; and

(12) narrow woven ribbon(s) comprising a belt attached to and imported with an item of wearing apparel, whether or not such belt is removable from such item of wearing apparel.

The merchandise subject to this investigation is classifiable under the HTSUS statistical categories 5806.32.1020; 5806.32.1030; 5806.32.1050 and 5806.32.1060. Subject merchandise also may enter under subheadings 5806.31.00; 5806.32.20; 5806.39.20; 5806.39.30; 5808.90.00; 5810.91.00; 5810.99.90; 5903.90.10; 5903.90.25; 5907.00.60; and 5907.00.80 and under statistical categories 5806.32.1080; 5810.92.9080; 5903.90.3090; and 6307.90.9889. The HTSUS statistical categories and subheadings are provided for convenience and customs purposes; however, the written description of the merchandise under investigation is dispositive.

### Scope Comments

In accordance with the preamble to the Department’s regulations (*see Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997)), in our *Initiation Notice* 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*.

On August 18, 2009, we received timely comments on the scope of the investigation from the following interested parties: 1) Costco Wholesale, Hobby Lobby Stores, Inc., Jo-Ann Stores, Inc., Michael Stores, Inc., and Target Corporation (collectively, “The Ribbons Retailers”); 2) Papillon Ribbon and Bow, Inc. (“Papillon”); and 3) Essential Ribbons, Inc. (“Essential Ribbons”). Specifically, we received two requests that the Department modify the

scope to clarify that certain products are outside the scope, and two additional requests that the Department narrow the scope to exclude two products that include merchandise which falls within the scope. These requests are as follows: 1) The Ribbons Retailers requested that the Department modify exclusions 10 (*i.e.*, narrow woven ribbons affixed as a decorative detail to non-subject merchandise) and 11 (*i.e.*, narrow woven ribbons affixed to non-subject merchandise as a working component) to clarify that narrow woven ribbons affixed to non-subject merchandise for a functional purpose (such as “belly bands” around a pair of pajamas and stationery packaged together by means of a ribbon) is excluded from the scope; 2) Papillon requested that the Department modify the scope to explicitly exclude formed rosettes, which Papillon argued is a subset of exclusions 1 (*i.e.*, formed bows) and 11; 3) The Ribbons Retailers requested that the Department narrow the scope to exclude narrow woven ribbons included within a kit or set in *de minimis* amounts (such as narrow woven ribbons in holiday ornament sets, which are of small, pre-cut lengths and are used to tie ornaments to a tree); and 4) Essential Ribbons requested that the Department narrow the scope to exclude pre-cut, hand-finished narrow woven ribbons for retail packaging in lengths of 72 inches or less.

On December 22, 2009, and January 29, 2010, Petitioner submitted comments on each of the above scope requests. Specifically, Petitioner agreed in concept with both requests made by The Ribbons Retailers (*i.e.*, items one and three, above), although Petitioner disagreed with The Ribbons Retailers’ request to modify exclusion 10. Moreover, while Petitioner also agreed with Papillon that rosettes are not covered by the scope of the investigation (*i.e.*, item two, above), it contended that the existing language of the scope at exclusions 1 and 11 is sufficiently clear on this point, given that rosettes are bows. Finally, Petitioner opposed Essential Ribbon’s request that the Department narrow the scope to exclude pre-cut, hand-finished ribbon (*i.e.*, item four, above) because Petitioner intended that such ribbon fall within the scope. Regarding this latter item, Petitioner asserts that it has in the past produced this product and may well produce it in the future, as it requires only a very minor finishing operation to cut and seal the ends of the ribbon. Further, Petitioner notes that it currently sells narrow woven ribbons in similar lengths (*i.e.*, of three feet or less),

and it prices these products in the same manner.

On January 19, 2010, Essential Ribbons submitted comments opposing Petitioner’s assertion that it wishes to have pre-cut, hand-finished ribbon (*i.e.*, item four, above) covered by the scope of this investigation. Essential Ribbons asserts that the petitioner does not currently produce this product and thus it should be excluded from the scope of this investigation.

We have carefully considered each of the requests noted above, as well as Petitioner’s responsive comments. While the Department does have the authority to define or clarify the scope of an investigation, the Department must exercise this authority in a manner which reflects the intent of the petition and the Department generally should not use its authority to define the scope of an investigation in a manner that would thwart the statutory mandate to provide the relief requested in the petition. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Softwood Lumber Products From Canada*, 67 FR 15539 (April 2, 2002), and accompanying Issues and Decision Memorandum under Scope Issues (after Comment 49). Thus, absent an overarching reason to modify the scope in the petition, the Department accepts it. *Id.* *See also Circular Welded Austenitic Stainless Pressure Pipe from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 51788, 51789 (September, 5 2008); *Notice of Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium From the Russian Federation*, 66 FR 49347 (September 27, 2001) and accompanying Issues and Decision Memorandum at Comment 12; and *Mitsubishi Heavy Industries, Ltd. v. U.S.*, 986 F. Supp. 1428 (CIT 1997).

In this case, Petitioner has no objection to modifying the scope with respect to items one and three described above (*i.e.*, narrow woven ribbons affixed to non-subject merchandise for a functional purpose and narrow woven ribbons included in kits or sets in *de minimis* amounts). Accordingly, we have modified the scope to incorporate Petitioner’s revised language with respect to item one because this modification is consistent with the intent of the petition. *See* the “Scope of the Investigation” section above. However, regarding item number three, we have concerns over whether the proposed scope exclusion would be administrable. Therefore, we have not modified the scope to exclude narrow

woven ribbons included in kits or sets in “*de minimis*” amounts, as described by Petitioner, for purposes of the preliminary determination. We intend to work with The Ribbons Retailers and Petitioner to determine whether this exclusion could be administrable and will consider modifying the scope for purposes of the final determination.

Regarding item two (*i.e.*, rosettes), Petitioner also agrees that this product is excluded. However, we have not modified the scope language with respect to rosettes because we find that the scope is sufficiently clear that rosettes are not covered by this investigation, and thus no modification is necessary. Finally, we have made no change to the scope with respect to item four (*i.e.*, pre-cut, hand-finished ribbons) because: 1) these products are clearly within the scope; and 2) Petitioner intended that these products be covered.

**Non-Market Economy Treatment**  
The Department considers the PRC to be a non-market economy (“NME”) country. *See, e.g., Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People’s Republic of China*, 72 FR 30758, 30760 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People’s Republic of China*, 72 FR 60632 (October 25, 2007) (“*Coated Free Sheet Paper*”). In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. No party has challenged the designation of the PRC as an NME country in this investigation. Therefore, we continue to treat the PRC as an NME country for purposes of this preliminary determination.

#### Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base normal value (“NV”), in most circumstances, on the NME producer’s factors of production (“FOPs”) valued in a surrogate market-economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market-economy countries that are at a level of economic development comparable to that of the NME country and are significant producers of comparable merchandise. The sources of the

surrogate values we have used in this investigation are discussed under the "Normal Value" section below.

The Department determined that India, the Philippines, Indonesia, Colombia, Thailand and Peru are countries comparable to the PRC in terms of economic development.<sup>2</sup> Once the countries that are economically comparable to the PRC have been identified, we select an appropriate surrogate country by determining whether an economically comparable country is a significant producer of comparable merchandise and whether the data for valuing FOPs is both available and reliable. In their October 21, 2009, submission, Petitioner referenced their statement in the Petition where they argued that the Department should select India as a surrogate country because it satisfies the statutory requirements for the selection of a surrogate country since it is at a level of economic development that is comparable to the PRC, and is a significant producer of merchandise comparable to the merchandise under investigation. See Petitioner's October 21, 2009, submission at 1–2. No other party provided comments on the record concerning the surrogate country.

We have determined that it is appropriate to use India as a surrogate country pursuant to section 773(c)(4) of the Act based on the following: (1) it is at a similar level of economic development pursuant to section 773(c)(4) of the Act; (2) it is a significant producer of comparable merchandise; and (3) we have reliable data from India that we can use to value the FOPs. Thus, we have calculated NV using Indian prices when available and appropriate to the FOPs of Yama Ribbons. We have obtained and relied upon publicly available information wherever possible. See Memorandum to the File from Zhulietta Willbrand, International Trade Compliance Analyst, AD/CVD Operations, Office 4, "Investigation of Narrow Woven Ribbons With Woven Selvedge from the People's Republic of China: Surrogate Values for the Preliminary Determination," which is dated concurrently with this notice ("Surrogate Value Memorandum").

In accordance with 19 CFR 351.301(c)(3)(i), for the final determination in an antidumping investigation, interested parties may submit publicly available information to

value the FOPs within 40 days after the date of publication of the preliminary determination.<sup>3</sup>

### Separate Rates

In the *Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME investigations. See *Initiation Notice*, 74 FR at 39296–39297. The process requires exporters and producers to submit a separate rate status application.<sup>4</sup>

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of subject merchandise in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* governmental control over export activities. The Department analyzes

<sup>3</sup> In accordance with 19 CFR 351.301(c)(1), for the final determination of this investigation, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. The Department generally will not accept the submission of additional, previously absent-from-the-record alternative surrogate value information pursuant to 19 CFR 351.301(c)(1). See *Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum at Comment 2.

<sup>4</sup> See *Policy Bulletin 05.1: Separate-Rate Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries*, (April 5, 2005), at 6, available at <http://ia.ita.doc.gov/policy/bull05-1.pdf>. ("Policy Bulletin 05.1"). *Policy Bulletin 05.1* states, in relevant part, "While continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applied both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation."

each entity exporting the subject merchandise under the test announced in the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("*Sparklers*"), as further developed in *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) ("*Silicon Carbide*"). However, if the Department determines that a company is wholly foreign-owned or located in a market economy, then a separate rate analysis is not necessary to determine whether it is independent from government control.

### Separate Rate Recipients

#### 1. Joint Ventures Between Chinese and Foreign Companies or Wholly Chinese-Owned Companies

Four separate rate applicants in this investigation, Yangzhou Bestpak, Ningbo MH, Ningbo V.K., and Weifang Yu Yuan (collectively, "Chinese SR Applicants"), provided evidence that they are either joint ventures between Chinese and foreign companies or wholly Chinese-owned companies. The Department has analyzed whether each of the four Chinese SR Applicants has demonstrated the absence of *de jure* and *de facto* governmental control over its respective export activities.

##### a. 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 license; (2) legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies. See *Sparklers*, 56 FR at 20589. The evidence provided by the four Chinese SR Applicants supports a preliminary finding that all of the above criteria have been satisfied.

The evidence provided by the four Chinese SR Applicants supports a preliminary finding of *de jure* absence of governmental control based on the following: (1) an absence of restrictive stipulations associated with the individual exporters' business and export licenses; (2) the existence of applicable legislative enactments decentralizing control of Chinese companies; and (3) the implementation of formal measures by the government decentralizing control of Chinese companies.

##### b. Absence of De Facto Control

Typically, the Department considers four factors in evaluating whether each respondent is subject to *de facto*

<sup>2</sup> See Memorandum from Kelly Parkhill, Acting Director, Office of Policy, to Robert Bolling, Program Manager, AD/CVD Operations, Office 4, "Request for a List of Surrogate Countries for an Antidumping Duty Investigation of Narrow Woven Ribbons With Woven Selvedge from the People's Republic of China" (September 15, 2009).

governmental control of its export functions: (1) whether the export prices are set by or are subject to the approval of a governmental agency; (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 management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. See *Silicon Carbide*, 59 FR at 22586–87; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995). 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 evidence provided by the four Chinese SR Applicants supports a preliminary finding of *de facto* absence of governmental control based on record statements and supporting documentation showing that the companies: (1) set their own export prices independent of the government and without the approval of a government authority; (2) have the authority to negotiate and sign contracts and other agreements; (3) maintain autonomy from the government in making decisions regarding the selection of management; and (4) retain the proceeds of their respective export sales and make independent decisions regarding disposition of profits or financing of losses.

Therefore, the evidence placed on the record of this investigation by the four Chinese SR Applicants demonstrates an absence of *de jure* and *de facto* government control under the criteria identified in *Sparklers* and *Silicon Carbide*. Accordingly, the Department has preliminarily granted a separate rate to the Chinese SR Applicants. See “Preliminary Determination” section below.

#### 2. Wholly Foreign-Owned

Eight separate rate applicants in this investigation, Beauty Horn, Fujian Rongshu, Guangzhou Complacent, Stribbons, Sun Ribbon, Sun Rich, Weifang Dongfang, Xiamen Yi He, and the mandatory respondent Yama Ribbons, (“Foreign-Owned SR Applicants”), provided evidence that they are wholly owned by individuals or companies located in market economies in their separate rate

applications. Therefore, because they are wholly foreign-owned and the Department has no evidence indicating that they are under the control of the government of the PRC, a separate rates analysis is not necessary to determine whether these companies are independent from government control. See *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China*, 64 FR 71104 (December 20, 1999) (determining that the respondent was wholly foreign-owned and, thus, qualified for a separate rate). Accordingly, the Department has preliminarily granted a separate rate to these Foreign-Owned SR Applicants. See “Preliminary Determination” section below.

#### *Companies Not Receiving a Separate Rate*

In the *Initiation Notice*, the Department requested that all companies wishing to qualify for separate rate status in this investigation submit a separate rate status application. See *Initiation Notice*. The following five exporters submitted a timely response to the Department's Q&V questionnaire but did not provide a separate rate application: 1) Billion Trend International Ltd.; 2) Ningbo Huarui Import & Export Co., Ltd.; 3) Ningbo Jinfeng Thread & Ribbon Co. Ltd.; 4) Ningbo Jintian; and 5) Tensen International Trading Ltd., and therefore have not demonstrated their eligibility for separate rate status in this investigation. As a result, the Department is treating these Chinese exporters as part of the PRC-wide entity.

#### *Margins for Separate Rate Recipients*

Through the evidence in their applications, the separate-rate applicants have demonstrated their eligibility for a separate rate, see the “Separate Rates” section above. Normally, the separate rate is determined based on the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding zero and *de minimis* margins or margins based entirely on adverse facts available (“AFA”). See section 735(c)(5)(A) of the Act. In this case, because there are no rates other than *de minimis* or those based on AFA, we have determined to take a simple average of the AFA rate applied to the PRC-wide entity and the *de minimis* rate calculated for Yama Ribbons as a reasonable method for purposes of determining the rate assigned to separate rate applicants. See Section 735(c)(5)(B) of the Act. We note

that this methodology is consistent with the Department's past practice. See *1-Hydroxyethylidene-1, 1-Diphosphonic Acid from the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 74 FR 10545, 10546 (March 11, 2009). That rate is 115.70 percent. The separate-rate applicants are listed in the “Suspension of Liquidation” section of this notice.

#### **Use of Facts Available and Adverse Facts Available**

Section 776(a) of the Act provides that the Department shall apply “facts otherwise available” (“FA”) if (1) necessary information is not on the record, or (2) 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.

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. Such an adverse inference may include reliance on information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

#### *Application of Partial Facts Available for Yama Ribbons*

Section 776(a) of the Act provides that the Department shall apply “facts otherwise available” if (1) necessary information is not on the record, or (2) 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. We have preliminarily determined that the application of partial facts available is warranted for certain packing materials FOPs reported by Yama Ribbons.

The Department must rely upon FA because Yama Ribbons did not provide us with accurate information with respect to certain packing materials FOPs with sufficient time to utilize Yama Ribbons' data for the preliminary

determination. On January 29, 2010, the Department informed Yama Ribbons' counsel that in the process of evaluating Yama Ribbons' packing data submitted on January 13, 2010, it had noticed that Yama Ribbons reported, for certain sales, a wide range of consumption rates for packing materials. The Department requested that Yama Ribbons evaluate its January 13, 2010, FOP database and inform the Department if there were misreported consumption rates for packing materials. The Department also expressly instructed Yama Ribbons not to submit any new numerical database in response to the Department's inquiry. See Memorandum to the File from Zhulieta Willbrand, International Trade Compliance Analyst, AD/CVD Operations, Office 4, "Antidumping Duty Investigation on Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China: Packing Materials," (January 29, 2010). On February 1, 2009, Yama Ribbons submitted a narrative explanation identifying sales with misreported consumption rates for packing materials, and stated reasons why these consumption rates were misreported. See "Narrow Woven Ribbons With Woven Selvedge from People's Republic of China, Antidumping Duty Investigation: Packing Materials Consumption Rates Response" (February 1, 2010). On February 1, 2010, the Department informed Yama Ribbons that the company could provide a revised FOP database reflecting only the narrative information submitted on February 1, 2010. The Department also notified Yama Ribbons that even if the revised FOP database was submitted to the Department before the preliminary determination, the Department could not guarantee that the new information would be considered in Yama Ribbons' margin calculation for the preliminary determination. See Memorandum to the File from Zhulieta Willbrand, International Trade Compliance Analyst, AD/CVD Operations, Office 4, "Antidumping Duty Investigation on Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China: New Numerical Data," (February 1, 2010). On February 2, 2010, Yama Ribbons provided a revised FOP database and a narrative explanation for all discrepancies.

The Department has determined that it lacks the sufficient amount of time before the preliminary determination to properly evaluate Yama Ribbons' revised FOP database. Yama Ribbons' new FOP database was submitted just two days prior to the completion of the preliminary determination, which is an

insufficient amount of time for the Department to evaluate the new database for consistency with the prior database. Thus, the Department has determined to use Yama Ribbons' January 13, 2010, FOP database in the preliminary determination margin calculation program. However, the Department acknowledges that the January 13, 2010, database suffers some deficiencies, as identified by Yama Ribbons pursuant to the Department's inquiries. Because the January 13, 2010, FOP database cannot serve as a reliable basis for this determination under section 782(e) of the Act, the Department finds that for the packing materials FOPs at issue, the Department must calculate dumping margins using the facts otherwise available pursuant to sections 776(a)(2)(A) of the Act.

In accordance with section 776(a)(2)(A) of the Act, the Department has applied FA for some of Yama Ribbons packing materials FOPs. As FA, for certain misreported packing materials FOPs we have applied a simple average consumption rate for each of the respective packing materials. See Analysis Memorandum for Yama Ribbons and Bows Co. Ltd. ("Yama's Analysis Memo") dated February 4, 2010.

At this time the Department does not find that it is necessary to apply an adverse inference, pursuant to section 776(a)(2)(B) of the Act, because Yama Ribbons responded to the Department's request for additional information concerning its January 13, 2010, FOP database. The Department may issue supplemental questionnaires after issuance of the preliminary determination to further analyze these packing FOPs for the final determination.

#### PRC-Wide Entity

##### 1. Non-Responsive Companies

On July 30, 2009, the Department requested Q&V information from the 86 companies that Petitioner identified as potential exporters or producers of narrow woven ribbons from the PRC. Additionally, the Department's *Initiation Notice* informed these companies of the requirements to respond to both the Department's Q&V questionnaire and the separate rate application in order to receive consideration for separate rate status. See *Initiation Notice*, 74 FR at 39296. However, only 19 exporters/manufacturers responded to the Department's request for Q&V information.<sup>[1]</sup> Furthermore, only 12

<sup>[1]</sup> As stated in the "Background" section above, the Department received 19 timely responses to the

exporters/manufacturers that submitted Q&V information also submitted a separate rate application.<sup>[2]</sup> Therefore, the Department preliminarily determines that there were exports of merchandise under investigation from PRC exporters/manufacturers that did not respond to the Department's Q&V questionnaire, and/or subsequently did not demonstrate their eligibility for separate rate status. As a result, the Department is treating these PRC exporters/manufacturers ("non-responsive companies") as part of the PRC-wide entity.

##### 2. Ningbo Jintian

As stated above, Ningbo Jintian did not respond to the Department's antidumping questionnaires (*i.e.*, Sections A, C and D questionnaire). Because Ningbo Jintian failed to participate in this investigation, Ningbo Jintian has failed to demonstrate that it operates free of government control and that it is entitled to a separate rate. Therefore, the Department preliminarily finds that Ningbo Jintian is part of the PRC-wide entity.

#### Application of Total Adverse Facts Available

As noted above, the Department has determined that the companies that did not submit separate rate applications, including Ningbo Jintian, are part of the PRC-wide entity. Pursuant to section 776(a) of the Act, the Department further finds that the PRC-wide entity failed to respond to the Department's questionnaires, withheld required information, and/or submitted information that cannot be verified, thus significantly impeding the proceeding. See, *e.g.*, *Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Preliminary Partial Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China*, 70 FR 77121, 77128 (December 29, 2005), unchanged in *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 (May 22, 2006). Accordingly, the Department has preliminarily determined to base the PRC-wide entity's margin on FA. See section 776(a) of the Act. Further, because the

86 Q&V questionnaires the Department sent to potential exporters identified in the Petition.

<sup>[2]</sup> As stated in the "Separate Rates" section above, 19 exporters submitted a timely response to the Department's Q&V questionnaire with sales within the POI, but only 12 of these exporters submitted a separate rate application.

PRC-wide entity failed to cooperate by not acting to the best of its ability to comply with the Department's request for information, the Department preliminarily determines that, when selecting from among the FA, an adverse inference is warranted for the PRC-wide entity pursuant to section 776(b) of the Act.

#### *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) provide that the Department may rely on information derived from (1) the petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. In selecting a rate for AFA, the Department selects a rate that is sufficiently adverse "as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner." See *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909, 8932 (February 23, 1998). Further, it is the Department's practice to select a rate that ensures "that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." See *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the Seventh Administrative Review; Final Results of the Eleventh New Shipper Review*, 70 FR 69937, 69939 (November 18, 2005) (quoting Statement of Administrative Action ("SAA") accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong., 2d Session at 870 (1994)).

It is the Department's practice to select, as AFA, the higher of the (a) highest margin alleged in the petition, or (b) the highest calculated rate of any respondent in the investigation. See *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon Quality Steel Products From The People's Republic of China*, 65 FR 34660 (May 31, 2000) and accompanying Issues and Decision Memorandum, at "Facts Available." In the instant investigation, as AFA, we have preliminarily assigned to the PRC-wide entity, including companies that did not respond to the Department's Q&V questionnaire, such as Ningbo Jintian, , the highest rate on the record of this proceeding for narrow woven ribbons from the PRC, which in this case is the 231.40 percent margin from the Petition. See *Initiation Notice*, 74 FR

at 39296. The Department preliminarily determines that this information is the most appropriate from the available sources to effectuate the purposes of AFA. The Department will consider all margins on the record at the time of the final determination for the purpose of determining the most appropriate AFA rate for the PRC-wide entity, including Ningbo Jintian.

The dumping margin for the PRC-wide entity applies to all entries of the merchandise under investigation except for entries of subject merchandise from the exporter/manufacturer combinations listed in the chart in the "Preliminary Determination" section below.

#### *Corroboration of Information*

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 as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is described as "information derived from the petition that gave rise to the investigation or review, the final determination concerning merchandise subject to this investigation, or any previous review under section 751 concerning the merchandise subject to this investigation."<sup>5</sup> To "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. Independent sources used to corroborate may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.<sup>6</sup>

The AFA rate that the Department used is from the Petition. Petitioner's methodology for calculating the United

States price and NV in the Petition is discussed in the *Initiation Notice*. To corroborate the AFA margin that we have selected, we compared this margin to the margin we found for the respondent. We found that the margin of 231.40 percent has probative value because it is in the range of the model-specific margins that we found for the mandatory respondent, Yama Ribbons. See Yama's Analysis Memo. Accordingly, we find that the rate of 231.40 percent is corroborated within the meaning of section 776(c) of the Act.

#### **Date of Sale**

The Department's regulations state that, "in identifying the date of sale of the merchandise under consideration or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the normal course of business." See 19 CFR 351.401(i). In *Allied Tube*, the Court of International Trade ("CIT") found that a "party seeking to establish a date of sale other than invoice date bears the burden of producing sufficient evidence to satisfy the Department that a different date better reflects the date on which the exporter or producer establishes the material terms of sale." *Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090 (CIT 2001) (quoting 19 CFR 351.401(i)) (*Allied Tube*). Additionally, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale. See 19 CFR 351.401(i); see also *Allied Tube*, 132 F. Supp. 2d at 1090-1092. The date of sale is generally the date on which the parties agree upon all material terms of the sale. This normally includes the price, quantity, delivery terms and payment terms. See *Nakornthai Strip Mill Pub. Co. v. United States*, 614 F. Supp. 2d 1323, 1334 (CIT 2009).

Yama Ribbons reported that the date of sale was determined by the shipment date of the subject merchandise to the unaffiliated United States customer because the shipment date is the date by which all terms of sale are considered final. In this case, as the Department found no evidence contrary to Yama Ribbon's claims that shipment date was the appropriate date of sale, the Department used shipment as the date of sale for this preliminary determination.

#### **Fair Value Comparison**

To determine whether sales of narrow woven ribbons to the United States by Yama Ribbons were made at LTFV, we

<sup>5</sup> See *Final Determination of Sales at Less Than Fair Value: Sodium Hexametaphosphate From the People's Republic of China*, 73 FR 6479, 6481 (February 4, 2008), quoting SAA at 870.

<sup>6</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).



compared export price (“EP”) to NV, as described in the “U.S. Price” and “Normal Value” sections of this notice.

### U.S. Price

In accordance with section 772(a) of the Act, for Yama Ribbons, we based the U.S. price of sales on EP because the first sale to unaffiliated purchasers was made prior to importation and the use of constructed export price was not otherwise warranted. In accordance with section 772(c) of the Act, we calculated EP for Yama Ribbons by deducting the following expenses from the starting price (gross unit price) charged to the first unaffiliated customer in the United States: foreign movement expenses, foreign brokerage and handling expenses and international freight. We reduced movement expenses, where appropriate, by the amount of freight revenue paid by the customer to Yama Ribbons. In accordance with our practice in the recently completed administrative review of polyethylene retail carrier bags from the PRC, we capped the amount of freight revenue deducted at no greater than the amount of movement expenses. See *Polyethylene Retail Carrier Bags from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 6857 (February 11, 2009) and accompanying Issues and Decision Memorandum at Comment 4. Yama also claimed an additional revenue adjustment to EP (*i.e.*, additional processing fees). For processing fees, we have preliminarily determined to allow this adjustment because Yama Ribbons claimed that it accounted for the additional FOPs utilized in providing for the additional processing in its reported FOPs. See Yama’s Analysis Memo. We plan to closely examine the processing fees issue at verification. Additionally, we based movement expenses on surrogate values where the service was purchased from a PRC company. See Yama’s Analysis Memo. For details regarding our EP calculation, see Yama’s Analysis Memo.

### Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine NV using a FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs

invalid under the Department’s normal methodologies. See, *e.g.*, *Preliminary Determination of Sales at Less Than Fair Value, Affirmative Critical Circumstances, In Part, and Postponement of Final Determination: Certain Lined Paper Products from the People’s Republic of China*, 71 FR 19695, 19703 (April 17, 2006), unchanged in *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).

As the basis for NV, Yama Ribbons provided FOPs used in each stage for producing narrow woven ribbons. Consistent with section 773(c)(1)(B) of the Act, it is the Department’s practice to value the FOPs that a respondent uses to produce the merchandise under consideration.

### Factor Valuation Methodology

In accordance with section 773(c) of the Act, we calculated NV based on FOP data reported by Yama Ribbons. To calculate NV, we multiplied the reported per-unit factor-consumption rates by publicly available surrogate values. In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. See, *e.g.*, *Fresh Garlic From the People’s Republic of China: Final Results of Antidumping Duty New Shipper Review*, 67 FR 72139 (December 4, 2002) and accompanying Issues and Decision Memorandum at Comment 6; and *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) and accompanying Issues and Decision Memorandum at Comment 5. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit’s decision in *Sigma Corp. v. United States*, 117 F.3d 1401, 1407–08 (Fed. Cir. 1997). A detailed description of all surrogate values used for Yama Ribbons can be found in the Surrogate Value Memorandum.

For this preliminary determination, in accordance with the Department’s practice, we used data from the Indian import statistics in the World Trade

Atlas (“WTA”), and other publicly available Indian sources in order to calculate surrogate values for Yama Ribbons’ FOPs (direct materials, energy, and packing materials) and certain movement expenses. In selecting the best available information for valuing FOPs in accordance with section 773(c)(1) of the Act, the Department’s practice is to select, to the extent practicable, surrogate values which are non-export average values, most contemporaneous with the POI, product-specific, and tax-exclusive. See, *e.g.*, *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004). The record shows that data in the WTA Indian import statistics, as well as those from the other Indian sources, are contemporaneous with the POI, product-specific, and tax-exclusive. See Surrogate Value Memorandum. In those instances where we could not obtain publicly available information contemporaneous to the POI with which to value factors, we adjusted the surrogate values using, where appropriate, the Indian Wholesale Price Index as published in the International Financial Statistics of the International Monetary Fund. See Surrogate Value Memorandum at Exhibit 2.

Furthermore, with regard to the Indian import-based surrogate values, we have disregarded import prices that we have reason to believe or suspect may be subsidized. We have reason to believe or suspect that prices of inputs from Indonesia, South Korea, and Thailand may have been subsidized. We have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized. See *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People’s Republic of China*, 69 FR 20594 (April 16, 2004) and accompanying Issues and Decision Memorandum at Comment 7. Further, guided by the legislative history, it is the Department’s practice not to

conduct a formal investigation to ensure that such prices are not subsidized. *See* Omnibus Trade and Competitiveness Act of 1988, Conference Report to accompany H.R. Rep. 100–576 at 590 (1988) reprinted in 1988 U.S.C.C.A.N. 1547, 1623–24; *see also* *Coated Free Sheet Paper*. Rather, the Department bases its decision on information that is available to it at the time it makes its determination. *See* *Polyethylene Terephthalate Film, Sheet, and Strip from the People’s Republic of China: Preliminary Determination of Sales at Less Than Fair Value*, 73 FR 24552, 24559 (May 5, 2008) (“*PET Film from China*”), unchanged in *Polyethylene Terephthalate Film, Sheet, and Strip from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 55039 (September 24, 2008). Therefore, we have not used prices from these countries in calculating the Indian import-based surrogate values. Additionally, we disregarded prices from NME countries. Finally, imports that were labeled as originating from an “unspecified” country were excluded from the average value, because the Department could not be certain that they were not from either an NME country or a country with general export subsidies. *See* *PET Film from China*, 73 FR at 24559.

For direct, indirect, and packing labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression-based wage rate as reported on Import Administration’s home page, <http://ia.ita.doc.gov/wages/index.html>, “Expected Wages Of Selected Non-Market Economy Countries, Expected Wage Calculation: 2007 GNI Data, Regression Analysis: 2007 GNI Data.” Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by the respondent. *See* Surrogate Value Memorandum at Exhibit 6.

We valued truck freight expenses using a per-unit average rate calculated from data on the infobanc Web site:

<http://www.infobanc.com/logistics/logtruck.htm>. The logistics section of this Web site contains inland freight truck rates between many large Indian cities. The value is contemporaneous with the POI. *See* Surrogate Value Memorandum at Exhibit 9.

We valued electricity using price data for small, medium, and large industries, as published by the Central Electricity Authority of the Government of India in its publication titled *Electricity Tariff & Duty and Average Rates of Electricity Supply in India*, dated March 2008. These electricity rates represent actual country-wide, publicly available information on tax-exclusive electricity rates charged to industries in India. As the rates listed in this source became effective on a variety of different dates, we are not adjusting the average value for inflation. *See* Surrogate Value Memorandum at Exhibit 3.

We calculated the surrogate value for steam based upon the April 2007–March 2008 financial statement of Hindalco Industries Limited. *See* Surrogate Value Memorandum at Exhibit 5.

The Department valued water using data from the Maharashtra Industrial Development Corporation (<http://midcindia.org>) as it includes a wide range of industrial water tariffs. This source provides 376 industrial water rates within the Maharashtra province for April 2009: 188 of the water rates were for the “inside industrial areas” usage category and 188 of the water rates were for the “outside industrial areas” usage category. *See* Surrogate Value Memorandum at Exhibit 4.

We valued brokerage and handling using a simple average of the brokerage and handling costs reported in public submissions filed in three antidumping duty cases. Specifically, we averaged the public brokerage and handling expenses reported by Navneet Publications (India) Ltd. in the 2007–2008 administrative review of certain lined paper products from India, Essar Steel Limited in the 2006–2007 antidumping duty administrative review of hot-rolled carbon steel flat products from India, and Himalaya International Ltd. in the 2005–2006 administrative

review of certain preserved mushrooms from India. The Department adjusted the average brokerage and handling rate for inflation. *See* Surrogate Value Memorandum at Exhibit 8.

We valued international ocean freight using rate quotes from Maersk Sealand, a market-economy shipper. *See* Surrogate Value Memorandum at Exhibit 10.

We valued international air freight using rates obtained from DHL. *See* Surrogate Value Memorandum at Exhibit 11.

To value factory overhead, selling, general, and administrative expenses, and profit, we used the factory overhead, selling, general and administrative expenses, and profit data from an Indian producer of comparable merchandise, Ratan Glitter Industries Ltd., a producer of comparable narrow woven ribbons, for the fiscal year April 1, 2007, through March 31, 2008. *See* Volume II of the Petition, at Exhibit 39.

**Currency Conversion**

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

**Verification**

As provided in section 782(i)(1) of the Act, we intend to verify the information upon which we will rely in making our final determination.

**Combination Rates**

In the *Initiation Notice*, the Department stated that it would calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. *See* *Initiation Notice*, 74 FR at 39297. This practice is described in *Policy Bulletin 05.1*, available at <http://ia.ita.doc.gov/>.

**Preliminary Determination**

The Department preliminarily determines that the following dumping margins exist for the period January 2009 through June 2009:

Exporter	Producer	Weighted-Average Percent Margin
Yama Ribbons and Bows Co., Ltd. ....	Yama Ribbons and Bows Co., Ltd. ....	0
Beauty Horn Investment Limited ....	Tianjin Sun Ribbon Co., Ltd. ....	115.70
Fujian Rongshu Industry Co., Ltd. ....	Fujian Rongshu Industry Co., Ltd. ....	115.70
Guangzhou Complacent Weaving Co., Ltd. ....	Guangzhou Complacent Weaving Co., Ltd. ....	115.70
Ningbo MH Industry Co., Ltd. ....	Hangzhou City Linghu Jiacheng Silk Ribbon Co., Ltd. ....	115.70
Ningbo V.K. Industry & Trading Co., Ltd. ....	Ningbo Yinzhou Jinfeng Knitting Factory ....	115.70
Stribbons (Guangzhou) Ltd. ....	Stribbons (Guangzhou) Ltd. ....	115.70
Stribbons (Guangzhou) Ltd. ....	Stribbons (Nanyang) MNC Ltd. ....	115.70
Sun Rich (Asia) Limited ....	Dongguan Yi Sheng Decoration Co., Ltd. ....	115.70
Tianjin Sun Ribbon Co., Ltd. ....	Tianjin Sun Ribbon Co., Ltd. ....	115.70

Exporter	Producer	Weighted-Average Percent Margin
Weifang Dongfang Ribbon Weaving Co., Ltd. ....	Weifang Dongfang Ribbon Weaving Co., Ltd. ....	115.70
Weifang Yu Yuan Textile Co., Ltd. ....	Weifang Yu Yuan Textile Co., Ltd. ....	115.70
Xiamen Yi He Textile Co., Ltd. ....	Xiamen Yi He Textile Co., Ltd. ....	115.70
Yangzhou Bestpak Gifts & Crafts Co., Ltd. ....	Yangzhou Bestpak Gifts & Crafts Co., Ltd. ....	115.70
PRC-wide Entity .....	.....	* 231.40

\*(Including Ningbo Jintian Import & Export Co., Ltd.)

### 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).

### Suspension of Liquidation

In accordance with section 733(d) of the Act, we will instruct U.S. Customs and Border Protection ("CBP") to suspend liquidation of all entries of narrow woven ribbons from the PRC as described in the "Scope of Investigation" section, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds U.S. price, as indicated above.

Additionally, the Department has determined in its *Narrow Woven Ribbons with Woven Selvedge from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination*, 74 FR 66090, 66096 (December 14, 2009) ("*CVD Prelim*") that the product under investigation, exported and produced by Yama Ribbons, did not benefit from an export subsidy. However, the countervailing duty rate for Ningbo Jintian, Beauty Horn, Fujian Rongshu, Guangzhou Complacent, Ningbo MH, Ningbo V.K., Stribbons, Sun Ribbon, Sun Rich, Weifang Dongfang, Weifang Yu Yuan, Xiamen Yi He, and Yangzhou Bestpak is the all-others rate, which is 59.49 percent. *Id.* Therefore, we will instruct CBP to require an antidumping duty cash deposit or the posting of a bond for each entry equal to the weighted-average margin indicated above for these companies adjusted for the export subsidies determined in the *CVD Prelim*. The adjusted cash deposit rate for Ningbo Jintian, Beauty Horn, Fujian Rongshu, Guangzhou Complacent, Ningbo MH, Ningbo V.K., Stribbons, Sun Ribbon, Sun Rich, Weifang Dongfang, Weifang Yu Yuan, Xiamen Yi

He, and Yangzhou Bestpak is 115.70 percent.

### International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination of sales at LTFV. If the Department's final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of narrow woven ribbons from Taiwan are materially injuring, or threatening material injury to, the U.S. industry (*see* section 735(b)(2) of the Act). As we are postponing the deadline for our final determination to 135 days from the date of the publication of this preliminary determination, the ITC will make its final determination no later than 45 days after our final determination.

### Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than seven days after the date on which the final verification report is issued in this proceeding and rebuttal briefs limited to issues raised in case briefs and must be received no later than five days after the deadline date for case briefs. *See* 19 CFR 351.309(c)(i) and (d). A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes.

In accordance with section 774 of the Act, and if timely requested, we will hold a public hearing, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. If a request for a hearing is made, we intend to hold the hearing two days after the deadline of submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days after the date of publication of this notice. *See* 19 CFR 351.310(c). Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief and may make rebuttal presentations only on arguments included in that party's rebuttal brief.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: February 4, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**RIN 0648-XU28**

### International Whaling Commission; 2010 Intersessional Meetings; Nominations

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; request for nominations.

**SUMMARY:** This notice is a call for nominees for the U.S. Delegation to the March 2010 Small Working Group and intersessional meetings of the International Whaling Commission (IWC). The non-federal representative(s) selected as a result of this nomination process is(are) responsible for providing input and recommendations to the U.S. IWC Commissioner representing the positions of non-governmental organizations. Generally, only one non-