

briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be filed no later than 35 days after the date of publication of this notice. Parties who submit argument in these proceedings are requested to submit with the argument: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. An interested party may request a hearing within 30 days of publication. See CFR 351.310(c). Any hearing, if requested, will be held 37 days after the date of publication, or the first business day thereafter, unless the Department alters the date pursuant to 19 CFR 351.310(d). The Department will issue the final results of these preliminary results, including the results of our analysis of the issues raised in any such written comments or at a hearing, within 120 days of publication of these preliminary results.

#### Assessment Rates

Upon completion of this administrative review, the Department will determine, and Customs shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate assessment instructions directly to Customs within 15 days of publication of the final results of review.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate established in the final results of the administrative review (except that no deposit will be required if the rate is zero or *de minimis*, i.e., less than 0.5 percent); (2) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the most recent period for the manufacturer of the merchandise; and (3) if neither the exporter nor the manufacturer is a firm covered in this review, any previous reviews, or the LTFV investigation, the cash deposit rate will be 2.59 percent, the "all others" rate established in the LTFV investigation. See *Antidumping Duty Order: Certain Hot-Rolled Carbon Steel Flat Products from the Netherlands*, 67 FR 59565 (November 29, 2001).

This notice also serves as a preliminary reminder to importers of

their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: November 29, 2004.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

[FR Doc. E4-3459 Filed 12-2-04; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-895]

#### Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Certain Crepe Paper From the People's Republic of China

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

**DATES:** *Effective Date:* December 3, 2004.

**FOR FURTHER INFORMATION CONTACT:** Alex Villanueva at (202) 482-3208 or Hallie Noel Zink at (202) 482-6907; AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### Case History

The preliminary determination in this investigation was published on September 21, 2004. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Tissue Paper Products and Certain Crepe Paper Products From The People's Republic of China*, 69 FR 56407 (September 21, 2004) ("*Preliminary Determination*"). Since the publication of the *Preliminary Determination*, the following events have occurred.

On October 21, 2004 Fujian Xinjifu Enterprises Co. Ltd. ("*Fujian Xinjifu*") submitted to the Department a letter confirming their decision not to participate in the verification of its Section A response in the above-referenced investigation.

On October 26, 2004 the Department notified all interested parties that briefs for the final determination in this investigation were due on November 1, 2004 and that rebuttal briefs were to be submitted by November 8, 2004. The Department did not receive either briefs or rebuttal briefs from any interested parties. See *Preliminary Determination* for a history of all previous comments submitted in this case.

#### Scope of Investigation

Crepe paper products subject to this investigation have a basis weight not exceeding 29 grams per square meter prior to being creped and, if appropriate, flame-proofed. Crepe paper has a finely wrinkled surface texture and typically but not exclusively is treated to be flame-retardant. Crepe paper is typically but not exclusively produced as streamers in roll form and packaged in plastic bags. Crepe paper may or may not be bleached, dye-colored, surface-colored, surface decorated or printed, glazed, sequined, embossed, die-cut, and/or flame-retardant. Subject crepe paper may be rolled, flat or folded, and may be packaged by banding or wrapping with paper, by placing in plastic bags, and/or by placing in boxes for distribution and use by the ultimate consumer. Packages of crepe paper subject to this investigation may consist solely of crepe paper of one color and/or style, or may contain multiple colors and/or styles.

The merchandise subject to this investigation does not have specific classification numbers assigned to it under the Harmonized Tariff System of the United States ("*HTSUS*"). Subject merchandise may be under one or more of several different HTSUS subheadings, including: 4802.30; 4802.54; 4802.61; 4802.62; 4802.69; 4804.39; 4806.40; 4808.30; 4808.90; 4811.90; 4818.90; 4823.90; 9505.90.40. The tariff classifications are provided for convenience and customs purposes; however, the written description of the scope of this investigation is dispositive.

#### Period of Investigation ("*POI*")

The POI is July 1, 2003, through December 31, 2003. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the Petition (February 17, 2004). See 19 CFR 351.204(b)(1).

#### Facts Available

In the *Preliminary Determination*, we based the dumping margin for the mandatory respondents, Fuzhou Light Industry Import and Export Co., Ltd ("*Fuzhou Light*") and Fuzhou Magicpro Gifts Co., Ltd. ("*Magicpro*"), on adverse

facts available pursuant to sections 776(a)(2) and (b) of the Tariff Act of 1930, as amended ("the Act"). See *Preliminary Determination*, 69 FR at 56412. The use of adverse facts available was warranted in this investigation because both Fuzhou Light and Magicpro informed the Department that they no longer wished to participate in this investigation. *Id.* Fuzhou Light and Magicpro's withdrawal resulted in the failure to provide information by the deadline or in the form or manner requested and, therefore, the Department used facts otherwise available pursuant to section 776(a)(2) of the Act in reaching the applicable determination. Furthermore, Fuzhou Light's and Magicpro's withdrawals constituted failures to cooperate to the best of their ability in the investigation and, therefore, the Department applied an adverse inference pursuant to section 776(b) of the Act in selecting from the facts available. As adverse facts available, we assigned Fuzhou Light and Magicpro the People's Republic of China ("PRC")-wide rate. *Id.* A complete explanation of the selection, corroboration, and application of adverse facts available can be found in the *Preliminary Determination*. See *Preliminary Determination*, 69 FR at 56412–56414. Since the publication of the *Preliminary Determination*, no interested parties have commented on our application of adverse facts available to the mandatory respondents with respect to the *Preliminary Determination*. Accordingly, for the final determination, we continue to use the margin listed in the *Preliminary Determination*, for the reasons stated therein. The "PRC-wide" rate remains unchanged as well.

The Department explained in the *Preliminary Determination* that there were no other estimated margins available for the Section A respondents, apart from the single price-to-normal value dumping margin in the petition. Therefore, we applied the petition margin of 266.83 percent as the rate for the crepe paper Section A respondents. See *Preliminary Determination*, 69 FR at 56414. No interested parties commented on our application of the petition margin to the crepe paper Section A respondents. As a result, we continue to use the margin listed in the *Preliminary Determination*, for the reasons stated therein.

As noted above, Fujian Xinjifu did not participate in the verification of its Section A response. As a result, Fujian Xinjifu has not overcome the presumption that it is part of the PRC-wide entity and, therefore, will be subject to the PRC-wide rate. See

*Memorandum to the File*, dated October 22, 2004. The Department did not verify the responses of the other Section A respondents, Everlasting Business and Industry Co. Ltd., Fujian Nanping Investment and Enterprise Co., Ltd., and Ningbo Spring Stationary Co., Ltd. Nevertheless, the Department continues to grant a separate rate to each of these Section A respondents because determining otherwise would hold them accountable for the Department's inability to verify them. Specifically, the Department intended to verify the three largest respondents, by volume, in this investigation, Fuzhou Light and Magicpro, the mandatory respondents, and Fujian Xinjifu, the largest Section A respondent. As stated above, the mandatory respondents withdrew their participation in the investigation, and Fujian Xinjifu declined to participate in verification. Fujian Xinjifu's letter declining participation in verification came shortly before verification was scheduled to begin, which prevented the Department from scheduling verification of any of the three remaining Section A respondents. In light of these circumstances, and the fact that no information has been presented to cast doubt on the veracity of the responses of the Section A respondents, the Department determines that the three remaining Section A respondents continue to be entitled to separate rates. As stated above, the separate rate for each of the Section A respondents remains equal to the petition margin of 266.83 percent, as in the *Preliminary Determination*.

#### Critical Circumstances

On June 18, 2004 Seaman Paper Company of Massachusetts, Inc.; American Crepe Corporation; Eagle Tissue LLC; Garlock Printing and Converting, Inc.; and the Paper, Allied-Industrial, Chemical and Energy Workers International Union AFL-CIO, CLC ("Petitioners") submitted an allegation of critical circumstances with respect to the antidumping duty investigation of certain crepe paper from the PRC. On September 21, 2004, the Department issued its *Preliminary Determination* that it had reason to believe or suspect critical circumstances exist with respect to imports of certain crepe paper from the PRC. See *Preliminary Determination*, 69 FR at 56409 and 56417–56418. The Department did not receive any briefs or rebuttal briefs from interested parties. Therefore, for the reasons set forth in the *Preliminary Determination*, we continue to find that critical circumstances exist for all imports of certain crepe paper from the PRC

including imports from the mandatory respondents, the Section A respondents and the PRC-wide entity.

#### Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing U.S. Customs and Border Protection ("CBP") to continue to suspend liquidation of all entries of crepe paper from the PRC that are entered, or withdrawn from warehouse, for consumption on or after 90 days before the date of publication of the *Preliminary Determination*. CBP shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These suspension of liquidation instructions will remain in effect until further notice.

We determine that the following dumping margins exist for the POI:

Manufacturer/exporter	Margin (percent)
Fuzhou Light .....	266.83
Magicpro .....	266.83
Everlasting Business and Industry Co. Ltd .....	266.83
Fujian Nanping Investment and Enterprise Co., Ltd .....	266.83
Ningbo Spring Stationary Co., Ltd .....	266.83
PRC-Wide Rate .....	266.83

#### International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. The ITC will determine, within 45 days, whether imports of subject merchandise from the PRC are causing material injury, or threaten material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, this proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This notice also serves as a reminder to parties subject to Administrative Protective Order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of

APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

[FR Doc. E4-3458 Filed 12-2-04; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Export Trade Certificate of Review

**ACTION:** Notice of issuance of an export trade certificate of review, application No. 04-00003.

**SUMMARY:** The Department of Commerce has issued an Export Trade Certificate of Review to the Rocky Mountain Instrument Company ("RMI"). This notice summarizes the conduct for which certification has been granted.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Anspacher, Director, Export Trading Company Affairs, International Trade Administration, by telephone at (202) 482-5131 (this is not a toll-free number), or by E-mail at [oetca@ita.doc.gov](mailto:oetca@ita.doc.gov).

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4011-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR 325 (2004).

Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of the Certification in the **Federal Register**. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

#### Description of Certified Conduct

##### I. Export Trade

###### Products

Laser and imaging optical components, coatings, assemblies, electro-optical systems, and laser marking systems.

##### II. Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

##### III. Export Trade Activities and Methods of Operation

With respect to the export of its products, RMI may:

1. Enter into arrangements with foreign distributors or customers to:
  - (a) Establish exclusive relationships; and
  - (b) Establish specific territorial sales restrictions.

2. Enter into agreements with primary customers to allow RMI to sell custom-built products to third-party customers.

A copy of this certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4001, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: November 29, 2004.

**Jeffrey Anspacher,**

*Director, Export Trading Company Affairs.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Notice of Request for an Extraordinary Challenge Committee

**AGENCY:** NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Request for an Extraordinary Challenge Committee to review the binational NAFTA Panel decisions of September 5, 2003; April 19, 2004; and August 31, 2004 in the matter of Certain Softwood Lumber Products from Canada—Final Affirmative Threat of Material Injury Determination, Secretariat File No. USA/CDA-2002-1904-07.

**SUMMARY:** On November 24, 2004, the Office of the United States Trade Representative filed a Request for an Extraordinary Challenge Committee to review decisions as stated above with the United States Section of the NAFTA Secretariat pursuant to Article 1904 of

the North American Free Trade Agreement. Committee review was requested of the final affirmative threat of material injury made by the International Trade Commission, respecting Certain Softwood Lumber Products From Canada. These determinations were published in the **Federal Register**. The NAFTA Secretariat has assigned Case Number ECC-2004-1904-01USA to this request.

#### FOR FURTHER INFORMATION CONTACT:

Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482-5438.

**SUPPLEMENTARY INFORMATION:** Chapter 19 of the North American Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* ("Rules"). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A Request for an Extraordinary Challenge Committee was filed with the United States Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on November 24, 2004, requesting panel review of the final affirmative threat of material injury as described above.

#### *The Rules provide that:*

(a) A Party or participant in the panel review who proposes to participate in the extraordinary challenge proceeding shall file with the responsible Secretariat a Notice of Appearance within 10 days after the filing of the first Request for Extraordinary Challenge Committee (the deadline for filing a Notice of Appearance is December 6, 2004); and

(b) All briefs shall be filed within 21 days after the Request for Extraordinary Challenge Committee (the deadline for filing briefs is December 15, 2004);