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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-549-821]

#### Polyethylene Retail Carrier Bags From Thailand: Final Results of Antidumping Duty Administrative Review

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

**SUMMARY:** On August 10, 2009, the Department of Commerce published the preliminary results of the 2007/2008 administrative review of the antidumping duty order on polyethylene retail carrier bags from Thailand. We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received and an examination of our calculations, we have made certain changes for the final results. The final weighted-average dumping margins for the respondents are listed below in the "Final Results of the Review" section of this notice.

**DATES:** *Effective Date:* December 11, 2009.

**FOR FURTHER INFORMATION CONTACT:**

Kristin Case or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-3174 or (202) 482-4477, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Background

On August 10, 2009, the Department of Commerce (the Department) published *Polyethylene Retail Carrier Bags from Thailand: Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 39928 (August 9, 2009) (*Preliminary Results*), in the **Federal Register**. The administrative review covers Thai Plastic Bags Industries Co., Ltd., and Master Packaging Co., Ltd. (Master Packaging). The Department has determined previously that Thai Plastic Bags Industries Co., Ltd., Apec Film Ltd., and Winner's Pack Co., Ltd., comprise the Thai Plastic Bags Group (TPBG). *See Notice of Final*

*Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags From Thailand*, 69 FR 34122, 34123 (June 18, 2004). The period of review is August 1, 2007, through July 31, 2008.

We invited parties to comment on the *Preliminary Results*. On September 9, 2009, we received a case brief from TPBG. On September 10, 2009, we received a case brief from the Polyethylene Retail Carrier Bag Committee and its individual members, Hilex Poly Co., LLC, and Superbag Corporation (collectively, the petitioners). On September 14, 2009, we received a rebuttal brief from TPBG. On September 15, 2009, we received a rebuttal brief from the petitioners. We did not hold a hearing as none was requested.

We have conducted this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

#### Scope of the Order

The merchandise subject to the antidumping duty order is polyethylene retail carrier bags (PRCBs) which may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non-sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm).

PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, e.g., grocery, drug, convenience, department, specialty retail, discount stores, and restaurants, to their customers to package and carry their purchased products. The scope of the order excludes (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end-uses other than packaging and carrying merchandise from retail establishments, e.g., garbage bags, lawn bags, trash-can liners.

As a result of recent changes to the Harmonized Tariff Schedule of the United States (HTSUS), imports of the subject merchandise are currently classifiable under statistical category 3923.21.0085 of the HTSUS.

Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

#### Use of Adverse Facts Available

In the *Preliminary Results* and pursuant to section 776(a) of the Act, we determined that, because Master Packaging significantly impeded this proceeding by failing to respond to our antidumping questionnaire, it was necessary to use facts otherwise available to establish a dumping margin for Master Packaging. *See Preliminary Results*, 74 FR at 39930. Moreover, pursuant to section 776(b) of the Act, we determined that it was appropriate to use an adverse inference with respect to Master Packaging. Id. No party commented on the Department's preliminary determination with respect to Master Packaging. Accordingly, for these final results we have continued to apply adverse facts available to establish a dumping margin for Master Packaging. For the reasons explained in the *Preliminary Results*, we have applied 122.88 percent as adverse facts available to Master Packaging.

#### Duty Absorption

In the preliminary results of this administrative review, pursuant to section 751(a)(4) of the Act, the Department found that Master Packaging absorbed antidumping duties on all U.S. sales. *See Preliminary Results*, 74 FR at 39929. Master Packaging did not present evidence to rebut the presumption that unaffiliated customers in the United States will not pay the full duty ultimately assessed on the subject merchandise. Thus, for the final results of this review, we continue to find that Master Packaging absorbed antidumping duties.

#### Analysis of Comments Received

All issues raised in the case briefs by parties to this review are addressed in the Issues and Decision Memorandum for the Antidumping Duty Administrative Review of Polyethylene Retail Carrier Bags from Thailand for the Period of Review August 31, 2007, through July 31, 2008 (Decision Memo), which is dated concurrently with this notice, and hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded is in the Decision Memo and attached to this notice as an Appendix. The Decision Memo, which is a public document, is on file in the Department's Central Records Unit (CRU) of the main Commerce building, Room 1117, and is accessible on the Web at <http://>

ia.ita.doc.gov/frn/index.html. The paper copy and electronic version of the Decision Memorandum are identical in content.

### Changes Since the Preliminary Results

For TPBG, we excluded packing expenses from the cost-of-goods-sold denominator we used in our calculations of both the general and administrative (G&A) and financial-expense ratios. Because the record evidence does not include a detailed description of TPBG's inventory-valuation loss, pursuant to section 776(a) of the Act, we have estimated the portion of the loss which is attributable to finished goods by applying the ratio of ending finished goods to total ending inventory. We have included the portion of the loss which is not attributable to finished goods in TPBG's G&A expenses. Additionally, because the record does not indicate the portion of TPBG's interest income which is attributable to short-term interest-bearing assets, pursuant to section 776(a) of the Act, we have estimated the amount of interest income which is attributable to short-term interest-bearing assets by applying the ratio of short-term interest-bearing assets to total interest-bearing assets. We have used the amount of interest income attributable to short-term interest-bearing assets as an offset to TPBG's financial expenses. We have applied TPBG's revised G&A and financial expense factors to TPBG's costs as reallocated for the *Preliminary Results*. Finally, we have applied the major-input adjustment to TPBG's total cost of manufacturing and corrected a ministerial error.

### Sales Below Cost in the Home Market

For these final results of review, the Department disregarded home-market sales by TPBG that failed the cost-of-production test.

### Final Results of Review

As a result of our review, we determine that the following percentage weighted-average dumping margins exist on PRCBs from Thailand for the period August 1, 2007, through July 31, 2008:

Producer/exporter	Margin (percent)
TPBG .....	21.99
Master Packaging .....	122.88

### Assessment Rates

The Department shall determine, and U.S. Customs and Border Protection

(CBP) shall assess, antidumping duties on all appropriate entries.

We calculated importer/customer-specific duty-assessment amounts with respect to export-price sales by TPBG in the following manner. We divided the total dumping margins (calculated as the difference between normal value and the export price) for each importer or customer by the total number of units TPBG sold to that importer or customer. We will direct CBP to assess the resulting per-unit dollar amount against each unit of merchandise on each of that importer's or customer's entries during the period of review. See 19 CFR 351.212(b)(1). Where the assessment amount is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer or customer.

The Department clarified its "automatic assessment" regulation on May 6, 2003. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment-Policy Notice*). This clarification will apply to entries of subject merchandise during the period of review produced by TPBG for which it did not know that the merchandise it sold to an intermediary (e.g., a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediary(ies) involved in the transaction. See *Assessment-Policy Notice* for a full discussion of this clarification.

Because we are relying on total adverse facts available to establish the dumping margin for Master Packaging, we will instruct CBP to apply a dumping margin of 122.88 percent to all entries of subject merchandise produced and/or exported by Master Packaging.

The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

### Cash-Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication, consistent with section 751(a)(1) of the Act: (1) The cash-deposit rates for the reviewed companies will be the rates shown above; (2) for previously investigated or reviewed companies not listed above, the cash-deposit rate will continue to be the company-specific rate published for

the most recent period; (3) if the exporter is not a firm covered in this or a previous review or the original less-than-fair-value (LTFV) investigation but the manufacturer is, the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash-deposit rate for all other manufacturers or exporters will continue to be 2.80 percent, the all-others rate from the amended final determination of the LTFV investigation published on July 15, 2004. See *Notice of Amended Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags From Thailand*, 69 FR 42419 (July 15, 2004).

These deposit requirements shall remain in effect until further notice.

### Notification Requirements

This notice serves as a 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 Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties. See *id.*

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(a)(3). Timely notification of the 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.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.221(b)(5).

Dated: December 7, 2009.

**Carole A. Showers,**

*Acting Deputy Assistant Secretary for Import Administration.*

### Appendix

1. Conversion-Cost Reallocation
2. Cost of Goods Sold
3. General and Administrative Expenses
4. Offset for Interest Income
5. Total Production Quantities
6. Major-Input Adjustment
7. Clerical Error

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