

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-886]

Polyethylene Retail Carrier Bags from the People's Republic of China: Final Results of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce ("the Department") published the preliminary results of administrative review of the antidumping duty order on polyethylene retail carrier bags ("PRCBs") from the People's Republic of China ("PRC") on September 13, 2006.¹ The period of review ("POR") is January 26, 2004, through July 31, 2005. We invited interested parties to comment on the *Preliminary Results*. Based on our analysis of the comments received, we have made changes to our margin calculations. Therefore, the final results differ from the *Preliminary Results*. The final dumping margins for this review are listed in the "Final Results of Review" section below.

EFFECTIVE DATE: March 19, 2007.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Matthew Quigley, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-4243 or (202) 482-4551, respectively.

SUPPLEMENTARY INFORMATION:**Background**

On September 28, 2005, the Department initiated this administrative review with respect to Dongguan Nozawa Plastic Products Co. Ltd. and United Power Packaging Ltd. (collectively "Nozawa"), Crown Polyethylene Products (International) Ltd. ("Crown"), Rally Plastics Co., Ltd. ("Rally"), Sea Lake Polyethylene Enterprise Ltd. ("Sea Lake"), Shanghai Glopac, Inc. ("Glopac"), High Den Enterprises Ltd. ("High Den"), and Shanghai New Ai Lian Import & Export Co., Ltd. ("New Ai Lian").² On October

25, 2005, the Department amended its initiation to include Ampac Packaging (Nanjing) Co. ("Ampac"), which was inadvertently omitted from the September 28, 2005 initiation notice.³

On November 16, 2005, New Ai Lian withdrew its request for an administrative review. On November 22, 2005, Rally withdrew its request for an administrative review. On December 27, 2005, Sea Lake and Glopac withdrew their requests for an administrative review. On February 23, 2006, Ampac withdrew its request for an administrative review.

On September 13, 2006, the Department published the *Preliminary Results* in the **Federal Register**.⁴ On October 20, 2006, High Den submitted its third supplemental questionnaire response ("3rd SQR"). The Polyethylene Retail Carrier Bags Committee ("the PRCB Committee"), Crown, High Den, and Nozawa each submitted case briefs on October 26, 2006, and rebuttal briefs on November 6, 2006.

On January 10, 2007, the Department determined that it was not practicable to complete the final results of the administrative review of PRCBs from the PRC within the 120-day period due to complex issues the parties have raised regarding the selection of appropriate financial statements for the calculation of surrogate financial ratios. Therefore, in accordance with section 751(a)(3)(A) of the Trade and Tariff Act of 1930 as amended ("the Act"), the Department extended the time period for completion of the final results until February 12, 2007.⁵

On February 2, 2007, the Department published the revised "Expected NME Wages" applicable to 2004 on its website. See <http://ia.ita.doc.gov/wages/index.html>. On February 2, 2007, the Department informed all interested parties of the revised NME wage rate applicable to this review and gave the parties the opportunity to comment on this issue prior to the final results.⁶ In

Packaging (collectively "Nozawa"), Dongguan Nozawa Plastics, Dongguan Nozawa Plastic Co., Ltd., Dong Guan (Dong Wan) Nozawa Plastic Co., Ltd., Dongguan Nozawa Plastic Products Co., Ltd., United Power Packaging, United Power Packaging Limited, United Power Packaging Ltd.

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 70 FR 61601 (October 25, 2005).

⁴ See *Polyethylene Retail Carrier Bags from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 54021 (September 13, 2006).

⁵ See *Polyethylene Retail Carrier Bags from the People's Republic of China: Notice of Extension of Time Limit for the Final Results of the Antidumping Duty Administrative Review*, 72 FR 1216 (January 10, 2007).

⁶ See Memorandum from Matthew Quigley, International Trade Compliance Analyst, Through

order to give parties an opportunity to comment on the Department's revised calculations of expected non-market economy wages, the Department extended the deadline to complete the final results to February 26, 2007.⁷ We extended the deadline to complete the final results due to complex issues related to the calculation of surrogate financial ratios to March 12, 2007.⁸

No party provided comments on this issue. Thus, we calculated the surrogate value for labor using the Department's revised expected NME wage rate of \$0.83 for the PRC.

We have conducted this administrative review in accordance with section 751 of the Act and 19 CFR 351.213.

Scope of the Order

The merchandise subject to this antidumping duty order is 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 investigation 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

Charles Riggle, Program Manager, AD/CVD Operations, Office 8, To The File, "Polyethylene Retail Carrier Bags from the People's Republic of China: Request for Comments on Revised Expected Non-Market Economy Wages" (February 2, 2007).

⁷ See *Polyethylene Retail Carrier Bags from the People's Republic of China: Notice of Extension of Time Limit for the Final Results of the Antidumping Duty Administrative Review*, 72 FR 7417 (February 15, 2007).

⁸ See *Polyethylene Retail Carrier Bags from the People's Republic of China: Notice of Extension of Time Limit for the Final Results of the Antidumping Duty Administrative Review*, 72 FR 9731 (March 5, 2007).

¹ See *Polyethylene Retail Carrier Bags from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 54021 (September 13, 2006) ("Preliminary Results").

² See, *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 56631, 56632 (September 28, 2005) ("Initiation Notice"), which refers to Nozawa with the following names: Dongguan Nozawa Plastics and United Power

from retail establishments, e.g., garbage bags, lawn bags, trash-can liners.

Imports of the subject merchandise are currently classifiable under statistical category 3923.21.0085 of the Harmonized Tariff Schedule of the United States (HTSUS).⁹ This subheading may also cover products that are outside the scope of this investigation. Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Analysis of Comments Received

All issues raised in the post-preliminary comments by parties in this review are addressed in the memorandum from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, "Issues and Decision Memorandum for the 2004–2005 Administrative Review of Polyethylene Retail Carrier Bags from the People's Republic of China," (March 12, 2007) ("Issues and Decision Memorandum"), which is hereby adopted by this notice. A list of the issues that parties raised and to which we responded in the Issues and Decision Memorandum is attached to this notice as an appendix. The Issues and Decision Memorandum is a public document and is on file in the Central Records Unit ("CRU") in room B-099 in the main Department building, and is also accessible on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the memorandum are identical in content.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made changes in the margin calculations for Crown, High Den, and Nozawa. See Issues and Decision Memorandum, at Comments 1–16.

Surrogate Financial Ratios

• We excluded Arvind Chemi Synthetics Pvt., Ltd. ("Arvind") and Jain Raffia Industries, Ltd. ("Jain Raffia") from the companies used to calculate the surrogate financial ratios because they did not produce merchandise that was identical or comparable to the subject merchandise. See Comment 1 of the memorandum from Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, "Issues and Decision Memorandum for the 2004–2005 Administrative Review of Polyethylene Retail Carrier Bags from the People's Republic of China," (February 12, 2007) ("Issues and Decision Memorandum").

• Of the seven surrogate financial statements provided by the PRCB Committee in its October 3, 2006 surrogate value submission, we based our determination of the surrogate financial ratios on: A.P. Polyplast Private Limited ("A.P. Polyplast"), Kuloday Technopack Pvt. Ltd. ("Kuloday"), Sangeeta Poly Pack Limited ("Sangeeta"), Smitabh Intercon Ltd. ("Smitabh"), Synthetic and Tims Polymers Pvt. Ltd. ("Tims"). See Comment 2 of the Issues and Decision Memorandum.

• We made the following changes to the calculations of the surrogate financial ratios provided in the PRCB Committee's case brief:

- a. We did not allocate "salary and wages" between labor and SG&A based upon industry-wide information published by the Indian government. Rather, we classified "salary and wages" in a manner consistent with each of the surrogate company's audited financial statements. See Comment 3a of the Issues and Decision Memorandum.
- b. We classified "salaries" as SG&A and "wages" as direct labor for A.P. Polyplast. See Comment 3b of the Issues and Decision Memorandum.
- c. We have classified "consumable stores" for A.P. Polyplast and Sangeeta as an overhead expense. See Comment 3c of the Issues and Decision Memorandum.
- d. We have offset SG&A by the amount of short-term interest reported on Sangeeta's, Smitabh's and Tims' financial statements. See Comment 3g of the Issues and Decision Memorandum.
- e. We decreased material cost by the amount of the increase of stock-in-process for Sangeeta, Smitabh and Tims. See Comment 3i of the Issues and Decision Memorandum.
- f. We did not adjust the audited financial statements for unacknowledged accruals for leave encashment and employee gratuity for A.P. Polyplast, Kuloday, Sangeeta, Smitabh, Synthetic and Tims. See Comment 3j of the Issues and Decision Memorandum.
- g. We offset SG&A by foreign exchange gains and losses for Kuloday, Smitabh and Tims. See

Comment 3k of the Issues and Decision Memorandum.

- h. We did not adjust the audited financial statements for subsidies for Tims. See Comment 3l of the Issues and Decision Memorandum.

Expected NME Wage Rate

• We calculated the surrogate value for labor using the Department's revised expected NME wage rate of \$0.83 for the PRC.

Nozawa

• We applied adverse fact available ("AFA") to those sales of Nozawa where the corresponding control number ("CONNUM") in the U.S. sales database was not based on the product's physical characteristics (e.g., those sales lacking factors of production data) rather than to all sales whose corresponding CONNUMs matched to more than one set of physical characteristics. See Comment 4b of the Issues and Decision Memorandum.

• We made no inland freight adjustment to Nozawa's market-economy ("ME") material input purchases which Nozawa reported as delivered prices. See Comment 7 of the Issues and Decision Memorandum.

• We adjusted U.S. prices for further manufacturing costs on a transaction-specific basis rather than a CONNUM-specific basis, thereby limiting the adjustment only to sales of product further manufactured in the United States. See Comment 8 of the Issues and Decision Memorandum.

• We treated Nozawa's export price ("EP") sales as though the entered values were unknown and calculated a per unit assessment for Nozawa's EP sales rather than an *ad valorem* assessment rate. We based these changes on Nozawa's December 23, 2005, original section C questionnaire response which, in response to field 47.0, states that the entered values of Nozawa's EP sales are unknown.

Crown

• We corrected the ministerial error in the SAS program representing the value of market-economy freight for four transactions. See Comment 9 of the Issues and Decision Memorandum.

• We valued paper cardboard using the value of HTS number 4819.10.10. See Comment 12 of the Issues and Decision Memorandum.

High Den

• We recalculated High Den's antidumping duty without regard for international freight. See Comment 14 of the Issues and Decision Memorandum.

⁹Until July 1, 2005, these products were classifiable under HTSUS 3923.21.0090 (Sacks and bags of polymers of ethylene, other). See *Harmonized Tariff Schedule of the United States (2005)- Supplement 1 Annotated for Statistical Reporting Purposes Change Record - 17th Edition - Supplement 1*, available at <http://hotdocs.usitc.gov/docs/tata/hts/bychapter/0510/0510chgs.pdf>.

- We deducted from the starting price handling charges that were recorded on the commercial invoices of the U.S. sales, but were not reported in the section C databases. See Comment 14 of the Issues and Decision Memorandum.
- We recalculated the value of High Den's market-economy purchases of polyethylene resins, correcting the ministerial errors contained in the Excel chart. See Comment 15 of the Issues and Decision Memorandum.

Final Results of Review

We determine that the following dumping margins exist for the period January 26, 2004, through July 31, 2005:

Exporter/Manufacturer	Weighted-Average Margin Percentage
Crown	7.68
High Den	14.01
Nozawa	7.36
The PRC-Wide Entity ..	77.57

Assessment Rates

The Department intends to issue assessment instructions to U.S. Customs and Border Protection 15 days after the date of publication of these final results of administrative 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 PRCBs from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by Section 751(a)(1) of the Act: (1) As the final weight-averaged margins for Crown, High Den, and Nozawa are not less than 0.5 percent and, therefore, not *de minimis*, cash deposits of estimated antidumping duties will be required; (2) for previously reviewed or investigated companies not listed above that have a separate rate, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) the cash deposit rate for all other PRC exporters will be 77.57 percent, the current PRC-wide rate; and (4) the cash deposit rate for all non-PRC exporters will be the rate applicable to the PRC exporter that supplied that exporter. These cash deposit requirements shall remain in effect until further notice.

Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) 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 the antidumping duties occurred and the subsequent assessment of double antidumping duties. This notice also serves as a reminder to parties subject to administrative protective orders ("APOs") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanction.

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

Dated: March 12, 2007.

David M. Spooner,
Assistant Secretary for Import Administration.

Appendix

List of Comments and Issues in the Decision Memorandum

Issues with Respect to Surrogate Financial Ratios

Comment 1: Exclude Arvind and Jain Raffia from the Calculation of the Surrogate Financial Ratios

Comment 2: Determine the Surrogate Financial Ratios Based on the Seven Financial Statements Provided by the PRCB Committee

Comment 3: Methodological and Clerical Errors in the Surrogate Financial Ratio Calculations Either Used by the Department or Proposed by the PRCB Committee

Comment 3a. Allocate "Salary and Wages" Between Direct Labor and Selling, General and Administrative ("SG&A") Expenses Based upon Industry-Wide Information Published by the Indian Government

Comment 3b. Classify "Salaries" as SG&A and "Wages" as a Part of Direct Labor

Comment 3c. Reclassify Consumable Stores as Manufacturing Overhead ("MOH") Rather than Direct Materials

Comment 3d. Offset the Value of Raw Material by Sales of Scrap

Comment 3e. Reclassify Depreciation as Factory Overhead

Comment 3f. Offset Direct Labor Expenses With Job Work Revenue

Comment 3g. Offset SG&A Expenses by Short-Term Interest Income

Comment 3h. Reclassify Coolie and Cartage from MOH to Labor Expense

Comment 3i. Reduce Material Costs by the Increase in Stock of Finished Goods and Scrap

Comment 3j. Adjust Audited Financial Statements for Leave Encashment and Employee Gratuity Accruals

Comment 3k. Offset Financial Expenses by Foreign Exchange Gains

Comment 3l. Adjust Energy, Overhead, SG&A and Profit by the Amount of Subsidy Receivable

Comments with Respect to Nozawa:

Comment 4a: Partial Adverse Facts Available ("AFA") for Nozawa

Comment 4b: Should AFA Be Limited Only to Control Numbers

("CONNUMs") Not Defined by Their Physical Characteristics or to All CONNUMs with More than One Set of Physical Characteristics?

Comment 5: Appropriate AFA Rate for Nozawa

Comment 6: Surrogate Value for Colored Ink

Comment 7: Nozawa's Further Manufacturing

Comment 8: Freight on Nozawa's Market-Economy ("ME") Purchases

Comments with Respect to Crown:

Comment 9: International Freight

Comment 10: Negative Sales Values in the Denominator Used to Calculate Importer-Specific Assessment Rates

Comment 11: Valuation of Cardboard Paper Inserts

Comment 12: Valuation of Corrugated Cardboard Carton

Comments with Respect to High Den:

Comment 13: New Factual Information Submitted by High-Den

Comment 14: International Freight Expenses for Transaction Number 2

Comment 15: Calculation of Weighted-Average Value of High Den's ME Purchases of Polyethylene Resins

Comment 16: Valuation of High Den's Scrap Resin

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