

regulations of the U.S. Commission on Civil Rights and the Federal Advisory Committee Act, that a planning meeting and a briefing meeting of the New Jersey Advisory Committee will convene on Friday, November 20, 2009, at the Legislative Annex of the State House, 125 West State Street, Room 3, Trenton, New Jersey 08625. The purpose of the planning meeting is to discuss and vote on the education report. The purpose of the briefing meeting is to obtain an update on the mortgage crisis in the state. The planning meeting will convene at 10 a.m. and the briefing meeting will convene at 11 a.m.

Members of the public are entitled to submit written comments; the comments must be received in the regional office by Monday, December 21, 2009. The address is Eastern Regional Office, 624 Ninth St., NW., Washington, DC 20425. Persons wishing to e-mail their comments, or who desire additional information should contact Alfreda Greene, Secretary, at 202-376-7533 or by e-mail to [ero@usccr.gov](mailto:ero@usccr.gov).

Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

Records generated from this meeting may be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee may go to the Commission's website, <http://www.usccr.gov>, or contact the Eastern Regional Office at the above e-mail or street address.

The meeting will be conducted pursuant to the rules and regulations of the Commission and Federal Advisory Committee Act.

Dated in Washington, DC, October 22, 2009.

**Peter Minarik,**

*Acting Chief, Regional Programs  
Coordination Unit.*

[FR Doc. E9-25845 Filed 10-26-09; 8:45 am]

BILLING CODE 6335-01-P

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* National Oceanic and Atmospheric Administration (NOAA).

*Title:* Northeast Region Logbook Family of Forms.

*OMB Control Number:* 0648-0212.

*Form Number(s):* NOAA Forms 88-30 and 88-140.

*Type of Request:* Regular submission.

*Number of Respondents:* 4,346.

*Average Hours per Response:* Logbooks, 5 minutes (12 minutes for shellfish logbooks); catch reports through Interactive Voice Response (IVR), 4 minutes; catch reports through vessel monitoring systems, 15 minutes.

*Burden Hours:* 12,119.

*Needs and Uses:* Under the authority of the Magnuson-Stevens Fishery Conservation and Management Act and the Fishery Management Council and Plan developed under this authority, fishing vessels permitted to participate in Federally-permitted fisheries in the Northeast Region are required to submit logbooks containing catch and effort information about their fishing trips. The participants in the herring, tilefish and red crab fisheries are also required to make reports on the catch through an IVR system. In addition, permitted vessels that catch halibut are asked to voluntarily provide additional information on the estimated size of the fish and the time of day caught. The information submitted is needed for the management of the fisheries.

*Affected Public:* Business or other for-profit organizations.

*Frequency:* On occasion.

*Respondent's Obligation:* Mandatory.

*OMB Desk Officer:* David Rostker, (202) 395-3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482-0266, Department of Commerce, Room 7845, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395-7285, or [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov).

Dated: October 22, 2009.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. E9-25767 Filed 10-26-09; 8:45 am]

BILLING CODE 3510-22-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-583-843]

### Polyethylene Retail Carrier Bags From Taiwan: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

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

**SUMMARY:** The U.S. Department of Commerce (the Department) preliminarily determines that polyethylene retail carrier bags (PRCBs) from Taiwan are being, or are likely to be, sold in the United States at less than fair value (LTFV) as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are listed in the "Suspension of Liquidation" section of this notice. Interested parties are invited to comment on this preliminary determination.

Pursuant to requests from the petitioners and the respondent, we are postponing by 60 days the final determination and extending provisional measures from a four-month period to not more than six months. Accordingly, we will make our final determination not later than 135 days after publication of the preliminary determination.

**DATES:** *Effective Date:* October 27, 2009.

**FOR FURTHER INFORMATION CONTACT:** Dmitry Vladimirov or Minoo Hatten, 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) 482-0665 and (202) 482-1690, respectively.

### SUPPLEMENTARY INFORMATION:

#### Background

On March 31, 2009, Hilex Poly Co., LLC, and Superbag Corporation (collectively, the petitioners) filed an antidumping petition concerning imports of PRCBs from Taiwan. See the Petition for the Imposition of Antidumping and Countervailing Duties on Polyethylene Retail Carrier Bags from Indonesia, Taiwan, and the Socialist Republic of Vietnam, dated March 31, 2009 (the petition).

On April 20, 2009, the Department initiated the antidumping duty investigation on PRCBs from Taiwan. See *Polyethylene Retail Carrier Bags From Indonesia, Taiwan, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations*, 74

FR 19049 (April 27, 2009) (*Initiation Notice*).

The Department 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 the date of publication of the *Initiation Notice*. See *Initiation Notice*, 74 FR at 19049. See also *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997). We received no comments from interested parties concerning product coverage. The Department also set aside a period of time for parties to comment on product characteristics for use in the antidumping duty questionnaire. See *Initiation Notice*, 74 FR at 19050. On May 11, 2009, we received comments from the petitioners. After reviewing the petitioners' comments, we have adopted the characteristics and hierarchy as explained in the "Product Comparisons" section of this notice, below.

On May 29, 2009, the International Trade Commission (ITC) published its affirmative preliminary determination that there is a reasonable indication that imports of PRCBs from Taiwan are materially injuring the U.S. industry, and the ITC notified the Department of its finding. See *Polyethylene Retail Carrier Bags From Indonesia, Taiwan, and Vietnam; Determinations*, Investigation Nos. 701-TA-462 and 731-TA-1156-1158 (Preliminary), 74 FR 25771 (May 29, 2009).

On May 21, 2009, we selected Ipsido Corporation (Ipsido) and TCI Plastic Co., Ltd. (TCI), as mandatory respondents in this investigation. See the "Selection of Respondents" section of this notice, below.

On May 26, 2009, we issued the antidumping questionnaire to Ipsido and TCI. On July 20, 2009, we received a questionnaire response from TCI. We did not receive a questionnaire response from Ipsido. We issued a supplemental questionnaire to TCI and received its response on September 1, 2009. We issued a second supplemental questionnaire to TCI and received its response on October 5, 2009. Because TCI claimed it was affiliated during the period of investigation (POI) with three Taiwanese producers of PRCBs, Tis Dis International Co., Ltd. (Tis Dis), CBM Machinery Co., Ltd. (CBM), and Corporate Best Enterprise Co., Ltd. (Corporate Best), it provided a unified response to our questionnaire with respect to these companies. See the "Affiliation and Collapsing" section of this notice, below.

On July 22, 2009, based on a timely request from the petitioners, we

extended the deadline for alleging targeted dumping.

On July 30, 2009, the petitioner alleged that TCI made home-market sales of PRCBs at prices below the cost of production (COP) during the POI. On August 12, 2009, we initiated an investigation to determine whether TCI made home-market sales of PRCBs at prices below the COP during the POI. See the "Cost of Production" section of this notice, below. In a letter dated August 13, 2009, we requested that TCI respond to the COP section of the antidumping questionnaire. On September 3, 2009, we received the cost response from TCI. We issued a supplemental cost questionnaire to TCI and received its response on October 5, 2009.

On August 7, 2009, the petitioners filed an allegation of targeted dumping by TCI. See the "Targeted-Dumping Allegation" section below.

On August 13, 2009, the petitioners requested that the Department postpone its preliminary determination by 42 days. In accordance with section 733(c)(1)(A) of the Act, we postponed our preliminary determination by 42 days. See *Postponement of Preliminary Determination of Antidumping Duty Investigations: Polyethylene Retail Carrier Bags from Indonesia, Taiwan, and the Socialist Republic of Vietnam*, 74 FR 42229 (August 21, 2009).

On September 17, 2009, the petitioners requested that, in the event of a negative preliminary determination in this investigation, the Department postpone the final determination in accordance with section 735(a)(2)(B) of the Act and 19 CFR 351.210(b)(2)(i). The petitioners did not specify the number of days by which to postpone the final determination. On September 17, 2009, TCI requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days in accordance with section 735(a)(2)(A) of the Act and 19 CFR 351.210(b)(2)(ii) and extend the application of the provisional measures prescribed under 19 CFR 351.210(e)(2) from a four-month period to a six-month period. For further discussion, see the "Postponement of Final Determination and Extension of Provisional Measures" section of this notice, below.

On October 1, 2009, the petitioners submitted comments for consideration in the preliminary determination. On October 8, 2009, the petitioners submitted a second set of comments for consideration in the preliminary determination.

## Period of Investigation

The POI is January 1, 2008, through December 31, 2008. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition, March 2009. See 19 CFR 351.204(b)(1).

## Scope of the Investigation

The merchandise subject to this investigation is PRCBs, which also 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 this 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 from retail establishments, e.g., garbage bags, lawn bags, trash-can liners.

Imports of merchandise included within the scope of this investigation are currently classifiable under statistical category 3923.21.0085 of the Harmonized Tariff Schedule of the United States (HTSUS). 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, the written description of the scope of this investigation is dispositive.

## Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of exporters or producers, to limit its

examination to a reasonable number of such companies if it is not practicable to examine all companies. The data on the record indicates that there are over 20 potential producers or exporters from Taiwan that exported the subject merchandise to the United States during the POI. In the *Initiation Notice* we stated that we intended to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports under HTSUS number 3923.21.0085 during the POI and we invited comments on CBP data and selection of respondents for individual examination. See *Initiation Notice*, 74 FR at 19054.

On April 27, 2009, we released the CBP data to all parties with access to information protected by administrative protective order. Based on our review of the CBP data and our consideration of the comments we received from the petitioners on May 7, 2009, we determined that we had the resources to examine two companies. Accordingly, we selected TCI and Ipsido as mandatory respondents. These companies are the two major producers/exporters of subject merchandise that account for the largest volume of subject merchandise during the POI that we can reasonably examine in accordance with the statute. See Memorandum to John M. Andersen entitled "Antidumping Duty Investigation on Polyethylene Retail Carrier Bags from Taiwan—Selection of Respondents" dated May 21, 2009.

#### Use of Facts Otherwise Available

For the reasons discussed below, we determine the use of facts otherwise available with an adverse inference is appropriate for the preliminary determination with respect to Ipsido.

##### A. Use of Facts Available

As indicated in the **SUPPLEMENTARY INFORMATION** section above, Ipsido did not respond to our questionnaire dated May 26, 2009. As such, Ipsido withheld information necessary to calculate a margin for its sales to the United States. Section 776(a)(2) of the the Act provides that, if an interested party withholds information requested by the administering authority, fails to provide such information by the deadlines for submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782, significantly impedes a proceeding under this title, or provides such information but the information cannot be verified as provided in section 782(i) of the Act, the administering authority shall use, subject to section 782(d) of the Act, facts otherwise available in

reaching the applicable determination. Section 782(e) of the Act states further that the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; (5) the information can be used without undue difficulties.

In this case, Ipsido did not respond to our questionnaire and, thus, has determined not to cooperate with our requests for information or to participate in this investigation. Ipsido's decision to abstain from participation in this investigation has precluded the Department from performing the necessary analysis and verification of Ipsido's questionnaire responses required by section 782(i)(1) of the Act. Because Ipsido chose to abstain from the proceeding and did not provide any information to the Department, section 782(e) of the Act is not applicable.

##### B. Application of Adverse Inferences for Facts Available

Section 776(b) of the Act stipulates that, if the Department finds that an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information, the Department may use an inference adverse to the interests of that party in selecting from the facts otherwise available. See *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025–26 (September 13, 2005), and *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794–96 (August 30, 2002). It is the Department's practice to apply adverse inferences to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully. See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103–316, vol.1 (1994) at 870 (SAA); see, e.g., *Certain Polyester Staple Fiber from Korea: Final Results of the 2005–2006 Antidumping Duty Administrative Review*, 72 FR 69663 (December 10, 2007). Furthermore, affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference. See, e.g., *Notice of Final Determination of Sales at Less*

*Than Fair Value: Circular Seamless Stainless Steel Hollow Products From Japan*, 65 FR 42985 (July 12, 2000), *Antidumping Duties; Countervailing Duties*, 62 FR at 27340, and *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382–83 (CAFC 2003) (*Nippon*).

Although we provided Ipsido with notice informing it of the consequences of its failure to respond fully to our antidumping questionnaire, Ipsido refrained from participation in this investigation and has failed to provide any response to our request for information. This constitutes a failure on the part of Ipsido to cooperate to the best of its ability to comply with a request for information by the Department pursuant to section 776(b) of the Act.

Based on the above, the Department has preliminarily determined that Ipsido has failed to cooperate to the best of its ability and, therefore, in selecting from among the facts otherwise available, an adverse inference is warranted. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Circular Seamless Stainless Steel Hollow Products From Japan*, 65 FR at 42986 (the Department applied total adverse facts available (AFA) where the respondent failed to respond to the antidumping questionnaire).

##### C. Selection and Corroboration of Information Used as Facts Available

Where the Department applies AFA because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record. See also 19 CFR 351.308(c) and the SAA at 868–870. It is the Department's practice to use the highest rate from the petition in an investigation when a respondent fails to act to the best of its ability to provide the necessary information. See, e.g., *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Purified Carboxymethylcellulose From Finland*, 69 FR 77216 (December 27, 2004) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethylcellulose From Finland*, 70 FR 28279 (May 17, 2005)). Therefore, because an adverse inference is warranted, we have assigned to Ipsido the highest margin alleged in the petition, 95.81 percent, as discussed in

the *Initiation Notice*. See *Initiation Notice*, 74 FR at 19054.

When using facts otherwise available, section 776(c) of the Act provides that, where the Department relies on secondary information (such as the petition) rather than information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably at its disposal.

The SAA clarifies that “corroborate” means the Department will satisfy itself that the secondary information to be used has probative value. See SAA at 870. As stated 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; 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, 11843 (March 13, 1997)), to corroborate secondary information, the Department will examine, to the extent practicable, the reliability and relevance of the information used. The Department’s regulations state that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. See 19 CFR 351.308(d) and the SAA at 870.

For the purposes of this investigation and to the extent appropriate information was available, we reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis and for purposes of this preliminary determination. See Antidumping Investigation Initiation Checklist dated April 20, 2009 (Initiation Checklist), at 7 through 13. See also *Initiation Notice*, 74 FR at 19051, 19053. We examined evidence supporting the calculations in the petition to determine the probative value of the margins alleged in the petition for use as AFA for purposes of this preliminary determination. During our pre-initiation analysis we examined the key elements of the export-price (EP) and normal-value calculations used in

the petition to derive margins. During our pre-initiation analysis we also examined information from various independent sources provided either in the petition or in supplements to the petition that corroborates key elements of the EP and normal-value calculations used in the petition to derive estimated margins. *Id.*

Based on our examination of the information, as discussed in detail in the Initiation Checklist and the *Initiation Notice*, we consider the petitioners’ calculation of normal value, based on constructed value, to be corroborated. Therefore, because we confirmed the accuracy and validity of the information underlying the derivation of margins in the petition by examining source documents as well as publicly available information, we preliminarily determine the margins in the petition are reliable for the purposes of this investigation.

With respect to the relevance aspect of corroboration the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin. See *Fresh Cut Flowers From Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (February 22, 1996) (the Department disregarded the highest dumping margin as best information available because the margin was based on another company’s uncharacteristic business expense resulting in an unusually high margin).

Because Ipsido did not submit information we requested in this investigation, we do not have such information to consider in determining whether the petition rates are relevant to Ipsido. The calculation of the petition rates reflects commercial practices of the PRCBs industry and, as such, are relevant to Ipsido. The courts have acknowledged that the consideration of the commercial behavior inherent in the industry is important in determining the relevance of the selected AFA rate to the uncooperative respondent by virtue of it belonging to the same industry. See, e.g., *Ferro Union, Inc. v. United States*, 44 F. Supp. 2d 1310, 1334 (1999). Such consideration typically encompasses the commercial behavior of other respondents under investigation and the selected AFA rate is gauged against the margins we calculate for those respondents. Therefore, we compared the transaction-specific margins of TCI for the POI to the highest petition rate.

We found that the highest transaction-specific rates we calculated for TCI in this investigation were higher than or within the range of the highest margin alleged in the petition.

Specifically, after calculating the margin for TCI as discussed in detail below, we examined individual transactions made by TCI during the POI and the margins we determined on those transactions in order to determine whether the rate of 95.81 percent is probative. We found a sale with a dumping margin above the rate of 95.81 percent and a number of sales with dumping margins within the range of 95.81 percent. Accordingly, the AFA rate is relevant as applied to Ipsido for this investigation because it falls within the range of TCI’s transaction-specific margins in the current investigation. See *Ta Chen Stainless Steel Pipe, Inc. v. United States*, 298 F.3d 1330, 1340 (CAFC 2002) (“Because Commerce selected a dumping margin within the range of Ta Chen’s actual sales data, we cannot conclude that Commerce ‘overreached reality’.”). Accordingly, we find that the 95.81 percent rate in the petition has probative value for use as AFA for Ipsido in this investigation.

Similar to our position in *Polyethylene Retail Carrier Bags from Thailand: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 53405 (September 11, 2006) (unchanged in *Polyethylene Retail Carrier Bags from Thailand: Final Results of Antidumping Duty Administrative Review*, 72 FR 1982 (January 17, 2007)), because this is the first proceeding involving this company, we find there are no probative alternatives to the margins alleged in the petition. Further, no information has been presented in the investigation that calls into question the relevance of the margins alleged in the petition. Accordingly, by using information that was corroborated in the pre-initiation stage of this investigation and preliminarily determining it to be relevant for the uncooperative respondent in this investigation, we have corroborated the AFA rate of 95.81 percent “to the extent practicable” as provided in section 776(c) of the Act. See also 19 CFR 351.308(d).

Therefore, with respect to Ipsido, we have used, as AFA, the highest margin in the petition of 95.81 percent, as set forth in the notice of initiation. See *Initiation Notice*, 74 FR at 19054.

#### Affiliation and Collapsing

Section 771(33)(F) of the Act defines affiliated persons as two or more persons directly or indirectly controlling, controlled by, or under

common control with any person. We find that TCI, Tis Dis, and Corporate Best are affiliated pursuant to section 771(33)(F) of the Act. Further, we find that CBM and TCI were affiliated during the majority of the POI pursuant to section 771(33)(F) of the Act. Because our analysis of affiliation involves extensive use of business-proprietary information, for a detailed discussion, see Memorandum to Laurie Parkhill entitled "Polyethylene Retail Carrier Bags from Taiwan—Collapsing of Affiliated Producers" dated October 19, 2009 (Collapsing Memo).

Section 351.401(f) of the Department's regulations outlines the criteria for collapsing (*i.e.*, treating as a single entity) affiliated producers for purposes of calculating a dumping margin. The regulations state that we will treat two or more affiliated producers as a single entity where (1) those producers have production facilities for similar or identical products that would not require substantial retooling of either facility in order to restructure manufacturing priorities and (2) we conclude that there is a significant potential for the manipulation of price or production. In identifying a significant potential for the manipulation of price or production, the Department may consider the following factors: (i) The level of common ownership; (ii) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; (iii) whether operations are intertwined, such as through the sharing of sales information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers. See 19 CFR 351.401(f)(2).

With respect to the first criterion of 19 CFR 351.401(f), the information on the record indicates that TCI and Tis Dis currently produce and/or have the potential to produce similar or identical products. Further, the information on the record indicates that Corporate Best provided cutting, sealing, and packaging services to Tis Dis and Tis Dis provided the same services to TCI for the production of PRCBs during the POI. Thus, with respect to TCI, Tis Dis, and Corporate Best, we find that no substantial retooling of any of these entities' facilities would be required to restructure the manufacturing priorities because information on the record indicates they use similar production processes, production facilities, and production equipment to produce PRCBs. See Collapsing Memo. Because the facilities of TCI, Tis Dis, and Corporate Best either produce or have

the potential to produce identical and similar products, the companies could shift production priorities from one company to the other without incurring prohibitive costs.

We also find that a significant potential for manipulation of prices, production costs, and production priorities exists pursuant to 19 CFR 351.401(f)(2). Specifically, the information on the record indicates that TCI, Tis Dis, and Corporate Best have high levels of common ownership. Further, the information on the record indicates that there is overlap in managerial employees and/or board members among these companies. See Collapsing Memo. Finally, the information on the record indicates that operations among these companies are intertwined at a significant level. See Collapsing Memo. Therefore, pursuant to 19 CFR 351.401(f), for this preliminary determination we have treated affiliated producers TCI, Tis Dis, and Corporate Best as a single entity for purposes of calculating a dumping margin.

We do not find that a significant potential for the manipulation of prices, production costs, and production priorities exists with respect to CBM. The information on the record of this investigation does not suggest that there were significant transactions between CBM and TCI (or Tis Dis or Corporate Best) during the POI. Moreover, the level of common ownership and extent of manager/board-member overlap between CBM and TCI is not sufficient to find a significant potential for the manipulation of price or production on this basis alone. See Collapsing Memo.

#### Targeted-Dumping Allegation

The statute allows the Department to employ the average-to-transaction margin-calculation methodology under the following circumstances: (1) There is a pattern of export prices that differ significantly among purchasers, regions, or periods of time; (2) the Department explains why such differences cannot be taken into account using the average-to-average or transaction-to-transaction methodology. See section 777A(d)(1)(B) of the Act.

On August 7, 2009, the petitioners submitted an allegation of targeted dumping with respect to TCI and asserted that the Department should apply the average-to-transaction methodology in calculating the margin for TCI. In their allegation, the petitioners assert that there are patterns of EPs and constructed export prices (CEPs) for comparable merchandise that differ significantly among purchasers, regions, and time periods. The

petitioners relied on the Department's targeted-dumping test in *Notice of Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the Republic of Korea*, 72 FR 60630 (October 25, 2007) (CFS); the petitioners also made their allegations using the Department's test in *Certain Steel Nails from the United Arab Emirates: Notice of Final Determination of Sales at Not Less Than Fair Value*, 73 FR 33985 (June 16, 2008), and *Certain Steel Nails from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 33977 (June 16, 2008) (collectively, *Nails*).

Because our analysis includes business-proprietary information, for a full discussion see Memorandum to Gary Taverman entitled "Less-Than-Fair-Value Investigation on Polyethylene Retail Carrier Bags from Taiwan: Targeted Dumping," dated October 19, 2009 (Targeted-Dumping Memo).

In our letter to the petitioners dated September 4, 2009, we stated that the petitioners' allegation using the CFS methodology lacked certain analysis for appropriately establishing the significance of differences in pricing patterns between targeted and non-targeted sales. In that letter we also stated that, because the methodology in *Nails* is our current targeted-dumping methodology, we planned to evaluate any targeted-dumping allegation concerning TCI only in the context of the determination we made in *Nails*. We also identified certain ministerial errors we had found in the computer program that was used in *Nails* and alerted the petitioners that they could re-submit their allegation which incorporates these corrections. The petitioners did not submit a revised allegation of targeted dumping with respect to TCI.

On October 1, 2009, the petitioners submitted comments for consideration in the preliminary determination. Specifically, the petitioners' comments relate to the issue of determining the proper rounding of prices in the targeting-dumping test and the issue of application of the average-to-transaction comparison method to all sales (not just to targeted sales) in an effort to unmask dumping associated with targeted sales.

#### A. Targeted-Dumping Test

After correcting certain ministerial errors mentioned above and described in detail in our September 4, 2009, letter, we conducted customer, regional, and time-period targeted-dumping analyses for TCI using the methodology we adopted in *Nails* and used most

recently in *Certain New Pneumatic Off-The-Road Tires from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances*, 73 FR 40485 (July 15, 2008) (*Tires*).

The methodology we employed involves a two-stage test; the first stage addresses the pattern requirement and the second stage addresses the significant-difference requirement. See section 777A(d)(1)(B)(i) of the Act and *Nails*. In this test we made all price comparisons on the basis of identical merchandise (*i.e.*, by control number or CONNUM). The test procedures are the same for the customer, region, and time-period targeted-dumping allegations. We based all of our targeted-dumping calculations on the U.S. net price which we determined for U.S. sales by TCI in our standard margin calculations. For further discussion of the test and the results, see the Targeted-Dumping Memo.

As a result of our analysis, we preliminarily determine that there is a pattern of EPs and CEPs for comparable merchandise that differ significantly among certain customers, regions, and time periods for TCI in accordance with section 777A(d)(1)(B)(i) of the Act and our practice as discussed in *Nails*.

#### B. Price-Comparison Method

Section 777A(d)(1)(B)(ii) of the Act states that the Department may compare the weighted average of the normal value to EPs or CEPs of individual transactions for comparable merchandise if the Department explains why differences in the patterns of EPs and CEPs cannot be taken into account using the average-to-average methodology. As described above, we have preliminarily determined that, with respect to sales by TCI for certain customers, regions, or time-periods, there was a pattern of prices that differ significantly. We find that these differences cannot be taken into account using the average-to-average methodology because the average-to-average methodology conceals differences in the patterns of prices between the targeted and non-targeted groups by averaging low-priced sales to the targeted group with high-priced sales to the non-targeted group.

In December 2008, the Department withdrew the regulation concerning targeted dumping. See *Withdrawal of the Regulatory Provisions Governing Targeted Dumping in Antidumping Duty Investigations*, 72 FR 74930 (December 10, 2008). The withdrawn targeted-dumping regulation normally

would have limited the application of the average-to-transaction methodology to just those sales that constitute targeted dumping. In light of the withdrawn regulation and the petitioners' comments in this case, we have considered the following options:

1. Apply the average-to-transaction methodology just to sales found to be targeted as the withdrawn regulation directed and, consistent with our average-to-transaction practice, do not offset any margins found on these transactions.
2. Apply the average-to-transaction methodology to all sales to the customer, region, or time period found to be targeted (not just those specific sales found to be targeted) and, consistent with our average-to-transaction practice, do not offset any margins found on these transactions.
3. Apply the average-to-transaction methodology to all sales by TCI and, consistent with our average-to-transaction practice, do not offset any margins found on these transactions.

The Department received comments on the price-comparison methodology in response to the *Withdrawal of Regulation*. Because consideration of those comments is still underway, for purposes of this preliminary determination and consistent with our practice in the *Nails* investigations, we have applied the average-to-transaction methodology to any targeted sales and applied the average-to-average methodology to the remaining non-targeted sales. When calculating the weighted-average margin, we combined the margin we calculated for the targeted sales with the margin we calculated for the non-targeted sales without offsetting any margins found among the targeted sales. See Targeted-Dumping Memo.

We invite interested parties to comment on the issue of the appropriate price-comparison methodology to use for the final determination in this investigation. Further, given the timing and complexity of the petitioners' October 1, 2009, comments, we intend to address such comments fully in the context of the final determination.

#### Date of Sale

Section 351.401(i) of the Department's regulations states that the Department normally will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulation provides further that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material

terms of sale are established. The Department has a long-standing practice of finding that, where shipment date precedes invoice date, shipment date better reflects the date on which the material terms of sale are established. See *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand*, 69 FR 76918 (December 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10; see also *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From Germany*, 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2. Based on record evidence, where shipment date occurs before the invoice date, all material terms of sale are set and do not change in the subsequent time, including the invoice date. Therefore, for home-market sales we used the earlier of shipment date or invoice date as the date of sale in accordance with our practice.

On October 8, 2009, the petitioners commented on the use of the long-term contract date as the date of sale for certain U.S. sales made pursuant to the long-term contract. Because there is insufficient time to analyze the record or gather additional information as necessary, we will continue to examine this issue and address it for the final determination.

#### Fair-Value Comparisons

To determine whether sales of PRCBs to the United States by TCI were made at LTFV during the POI, we compared EP or CEP to normal value, as described in the "U.S. Price" and "Normal Value" sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated POI-wide weighted-average EPs and CEPs except for those sales discussed above in the "Targeted-Dumping Allegation" section of this notice.

#### Product Comparisons

We have taken into account the comments that were submitted by the interested parties concerning product-comparison criteria. In accordance with section 771(16) of the Act, all products TCI produced that are covered by the description in the "Scope of the Investigation" section, above, and sold in Taiwan during the POI are considered to be foreign like product for purposes of determining appropriate product comparisons to U.S. sales. We have relied on thirteen criteria to match U.S. sales of subject merchandise to

home-market sales of the foreign like product: quality, bag type, length, width, gusset, thickness, percentage of high-density polyethylene resin, percentage of low-density polyethylene resin, percentage of low linear-density polyethylene resin, percentage of color concentrate, percentage of ink coverage, number of ink colors, and number of sides printed. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade for comparison to U.S. sales, we matched U.S. sales to the next most similar foreign like product on the basis of the characteristics listed above.

### U.S. Price

In accordance with section 772(a) of the Act, we used EP for TCI's sales where the subject merchandise was sold directly to unaffiliated customers in the United States prior to importation. In accordance with section 772(b) of the Act, we used CEP for those sales where the subject merchandise was first sold (or agreed to be sold) in the United States before or after the date of importation by a seller affiliated with the producer or exporter to a purchaser not affiliated with the producer or exporter.

We calculated EP and CEP based on the packed F.O.B., C.I.F., or delivered price to unaffiliated purchasers in, or for exportation to, the United States. We made deductions, as appropriate, for discounts and rebates. We also made deductions for any movement expenses in accordance with section 772(c)(2)(A) of the Act. See the TCI Analysis Memorandum to the file dated October 19, 2009, for additional information.

In accordance with section 772(d)(1) of the Act and the SAA at 823–824, we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States which includes commissions, direct selling expenses, and indirect selling expenses. Finally, we made an adjustment for profit allocated to these expenses in accordance with section 772(d)(3) of the Act.

### Normal Value

#### A. Home-Market Viability and Comparison-Market Selection

To determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating normal value (*i.e.*, the aggregate volume of home-market sales of the foreign like product is equal to or greater than five percent of the aggregate volume of U.S. sales), we compared TCI's volume of home-market sales of the foreign like product to its volume of

U.S. sales of the subject merchandise. See section 773(a)(1)(B) of the Act. Based on this comparison, we determined that TCI had a viable home market during the POI. Consequently, we based normal value on home-market sales.

#### B. Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine normal value based on sales in the comparison market at the same level of trade as the EP or CEP. Pursuant to 19 CFR 351.412(c)(1), the normal-value level of trade is based on the starting price of the sales in the comparison market or, when normal value is based on constructed value, the starting price of the sales from which we derive selling, general and administrative expenses and profit. For EP sales, the U.S. level of trade is based on the starting price of the sales in the U.S. market, which is usually from the exporter to the importer. For CEP sales, the U.S. level of trade is based on the starting price of the U.S. sales as adjusted under section 772(d) of the Act, which is from the exporter to the importer.

To determine whether comparison-market sales are at a different level of trade than EP or CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. See 19 CFR 351.412(c)(2). If the comparison-market sales are at a different level of trade and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which normal value is based and the comparison-market sales at the level of trade of the export transaction, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the normal-value level of trade is at a more advanced stage of distribution than the CEP level of trade and there is no basis for determining whether the difference in levels of trade affects price comparability, we adjust normal value under section 773(a)(7)(B) of the Act (the CEP-offset provision). See *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731 (November 19, 1997).

In this investigation, we obtained information from TCI regarding the marketing stages involved in making its reported home-market and U.S. sales, including a description of the selling activities TCI (or, where applicable, its affiliate(s)) performed for each channel of distribution.

During the POI, TCI reported that it sold PRCBs in the home market to retailers through two channels of distribution, direct sales and consignment sales. We found that the selling activities associated with these channels of distribution did not differ.<sup>1</sup> Accordingly, we found that the two home-market channels of distribution constituted a single level of trade for home-market sales.

TCI reported that its EP sales were made using two channels of distribution, direct F.O.B. Taiwan sales to retailers and sales to a Taiwanese trading company for export to a retail customer in the United States. We found that the selling activities associated with these channels of distribution did not differ. Accordingly, we found that the two EP channels of distribution constituted a single level of trade. We found that the EP level of trade was not similar to the home-market level of trade in terms of selling activities. For example, we found that the two levels of trade differ with respect to sales forecasting, strategic and economic planning, direct sales personnel, and inventory maintenance.<sup>2</sup> Accordingly, we considered the EP level of trade to be different from the home-market level of trade and to be at a less advanced stage of distribution than the home-market level of trade. Therefore, we could not match EP sales to sales at the same level of trade in the home market nor could we determine a level-of-trade adjustment because there is only one level of trade in the home market. See section 773(a)(7)(A) of the Act. Furthermore, we have no other information that provides an appropriate basis for determining a level-of-trade adjustment. Thus, we matched EP sales without regard to level of trade in the home market and made no level-of-trade adjustment.

With respect to CEP sales, although TCI made the sales to unaffiliated retail customers through two reported channels of distribution, we found both CEP channels of distribution similar in

<sup>1</sup> Although TCI designated the provision of warranty services for one home-market channel of distribution and incurrence of commissions in the other as the only selling functions allegedly differentiating the two channels, we did not consider them in our level-of-trade analysis because we adjust the starting price in the comparison market for these direct selling expenses pursuant to section 773(a)(6)(c)(iii) of the Act.

<sup>2</sup> Although TCI designated the provision of rebates and commissions in the home-market channels of distribution and reported that it did not provide such functions for its EP channels of distribution, we did not consider these functions in our level-of-trade analysis because we adjust the starting price in the comparison market for these direct selling expenses pursuant to section 773(a)(6)(c)(iii) of the Act.



terms of selling activities. For example, we found that the two channels differ only with respect to the provision of inventory maintenance.<sup>3</sup> Therefore, we considered the CEP to constitute only one level of trade. In comparing the home-market level of trade to the CEP level of trade, we found that the selling activities performed by TCI for its CEP sales were not significantly fewer than the selling activities that it performed for its home-market sales and that the home-market level of trade was not significantly more remote from the factory than the CEP level of trade.<sup>4</sup> Accordingly, we did not consider the CEP level of trade to be different from the home-market level of trade or at a less advanced stage of distribution than the home-market level of trade. Therefore, we matched CEP sales to sales at the same level of trade in the home market; as a result, no CEP-offset or level-of-trade adjustment with regard to CEP sales comparisons was appropriate.

### C. Cost of Production

Based on our analysis of the petitioners' allegation, we found that there were reasonable grounds to believe or suspect that TCI made sales of PRCBs in the home market at prices below their COP. Accordingly, pursuant to section 773(b) of the Act, we initiated a sales-below-cost investigation to determine whether these companies had sales that were made at prices below their respective COP. See Memorandum to John M. Andersen entitled "Less-Than-Fair-Value Investigation on Polyethylene Retail Carrier Bags from Taiwan: Request to Initiate Cost Investigation for TCI Plastic Co. Ltd.," dated August 12, 2009.

#### 1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the cost of materials and fabrication for the foreign like product plus an amount for general and administrative expenses (G&A), interest expenses, and home-market packing costs (see the "Test of Home-Market Sales Prices" section below for

treatment of home-market selling expenses and packing costs). We relied on the COP data submitted by TCI in its October 5, 2009, supplemental response to our questionnaire with certain exceptions.

We increased TCI's reported cost of manufacturing (COM) to account for the unreconciled difference between the COM from its normal books and records and the COM it reported in its responses to our questionnaire. In accordance with section 773(f)(3) of the Act, we adjusted TCI's COM to reflect the higher of transfer price, market price, or cost of resins, a major input used in the production of PRCBs that were purchased from an affiliated company. For further discussion, see Memorandum to Neal Halper entitled "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination—TCI Plastic Co. Ltd. and Tis Dis International Co. Ltd." dated October 19, 2009.

Further, we requested that TCI provide additional information related to the use of virgin versus recycled resins in the production of merchandise under consideration. Although TCI provided a response to our request for additional information, we find this information to be incomplete. As a result, for this preliminary determination, we do not have all of the information necessary to examine and analyze TCI's reported methodology for the allocation of resin costs. We intend to solicit additional cost information from TCI after the preliminary determination for consideration in the final determination.

#### 2. Test of Home-Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the home-market sales of the foreign like product, as required under section 773(b) of the Act, to determine whether the sales were made at prices below the COP. For purposes of this comparison, we used the COP exclusive of selling and packing expenses. The prices were exclusive of any applicable movement charges, direct and indirect selling expenses, and packing expenses and we adjusted the home-market prices for discounts.

#### 3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of the respondent's sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product because we determine that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of the

respondent's sales of a given product during the POI were at prices less than COP, we determine that such sales have been made in "substantial quantities" and, thus, we disregard below-cost sales. See section 773(b)(2)(C) of the Act. Further, we determine that the sales were made within an extended period of time, in accordance with section 773(b)(2)(B) of the Act, because we examine below-cost sales occurring during the entire POI. In such cases, because we compare prices to POI-average costs, we also determine that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

In this case, we found that, for certain specific products, more than 20 percent of TCI's home-market sales were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. Therefore, we disregarded these sales and used the remaining sales as the basis for determining normal value in accordance with section 773(b)(1) of the Act.

### D. Calculation of Normal Value Based on Home-Market Prices

We based normal value for TCI on packed, delivered prices to unaffiliated customers in the home market. We made an adjustment to the starting price, where appropriate, for discounts in accordance with 19 CFR 351.401(c). We made deductions, where appropriate, for movement expenses, limited to inland freight, under section 773(a)(6)(B)(ii) of the Act. See the TCI Analysis Memorandum to the file dated October 19, 2009, for additional information.

For comparisons to EP, we made circumstance-of-sale adjustments by deducting home-market direct selling expenses from, and adding U.S. direct selling expenses to, normal value. For comparisons to CEP, we made circumstance-of-sale adjustments by deducting home-market direct selling expenses from normal value. We also made adjustments in EP and CEP calculations, when applicable, for home-market indirect selling expenses incurred for U.S. sales to offset home-market commissions.

We made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act. We deducted home-market packing costs and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Act.

<sup>3</sup> Although TCI designated the provision of discounts, commissions, and rebates as well as the incurrence of freight and customs-related expenses for one U.S. channel of distribution and not in the other as the only remaining selling functions allegedly differentiating the two channels, we did not consider these functions in our level-of-trade analysis because we adjust the starting CEP for these direct selling and movement expenses pursuant to section 772(d)(1) of the Act.

<sup>4</sup> TCI made statements on the record asserting that it considers its level of trade to the affiliated importer the same as its level of trade in the home market; it did not claim a CEP offset.



### *E. Calculation of Normal Value Based on Constructed Value*

In accordance with section 773(a)(4) of the Act, we used constructed value as the basis for normal value when there were no usable sales of the foreign like product in the comparison market. We calculated constructed value in accordance with section 773(e) of the Act. We included the cost of materials and fabrication, selling, general, and administrative (SG&A) expenses, interest expenses, U.S. packing expenses, and profit in the calculation of constructed value. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses, financial expenses, and profit on the amounts incurred and realized by TCI in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the home market.

When appropriate, we made adjustments to constructed value in accordance with section 773(a)(8) of the Act, 19 CFR 351.410, and 19 CFR 351.412 for circumstance-of-sale differences. For comparisons to EP, we made circumstance-of-sale adjustments by deducting home-market direct selling expenses from and adding U.S. direct selling expenses to constructed value. For comparisons to CEP, we made circumstance-of-sale adjustments by deducting home-market direct selling expenses from constructed value. We also made adjustments in EP and CEP comparisons, when applicable, for home-market indirect selling expenses incurred for U.S. sales to offset home-market commissions.

When possible, we calculated constructed value at the same level of trade with respect to CEP sales or without regard to level of trade with respect to EP sales.

### **Currency Conversion**

It is our normal practice to make currency conversions into U.S. dollars in accordance with section 773A(a) of the Act based on 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 relied upon in making our final determination for TCI.

### **Suspension of Liquidation**

In accordance with section 733(d)(2) of the Act, we will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of PRCBs from Taiwan that are 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 margins, as indicated below, as follows: (1) The rates for TCI and Ipsido will be the rates we have determined in this preliminary determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 28.69 percent, as discussed in the "All-Others Rate" section, below. These suspension-of-liquidation instructions will remain in effect until further notice.

Manufacturer/exporter	Weighted-average margin (percent)
Ipsido Corporation .....	95.81
TCI Plastic Co., Ltd. ....	28.69

### **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. TCI is the only respondent in this investigation for which the Department has calculated a company-specific rate. Therefore, for purposes of determining the all-others rate and pursuant to section 735(c)(5)(A) of the Act, we are using the weighted-average dumping margin calculated for TCI, 28.69 percent. See, e.g., *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Italy*, 64 FR 30750, 30755 (June 8, 1999), and *Coated Free Sheet Paper from Indonesia: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 72 FR 30753, 30757 (June 4, 2007) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from Indonesia*, 72 FR 60636 (October 25, 2007)).

### **Disclosure**

We will disclose the calculations performed in our preliminary determination to interested parties in 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 our

preliminary affirmative determination. 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 PRCBs from Taiwan are materially injuring, or threatening material injury to, the U.S. industry (see section 735(b)(2) of the Act). Because we are postponing the deadline for our final determination to 135 days from the date of the publication of this preliminary determination, as discussed below, 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 no later than seven days after the date of the issuance of the last verification report in this proceeding. 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. See 19 CFR 351.309(c)(2). Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette.

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 issues raised in case briefs, provided that such a hearing is requested by an interested party. See also 19 CFR 351.310. If a timely request for a hearing is made in this investigation, we intend to hold the hearing two days after the deadline for filing a rebuttal brief 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. 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

the following: (1) The party's name, address, and telephone number; (2) a list of participants; (3) a list of the issues to be discussed. See 19 CFR 351.310(c). At the hearing, oral presentations will be limited to issues raised in the briefs.

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

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise or, in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of the Department's regulations requires that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On September 17, 2009, TCI requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days. At the same time, TCI requested that the Department extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2) from a four-month period to a six-month period. In accordance with section 735(a)(2) of the Act and 19 CFR 351.210(b)(2), because (1) our preliminary determination is affirmative, (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting this request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

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

Dated: October 19, 2009.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E9-25714 Filed 10-26-09; 8:45 am]

BILLING CODE 3510-DS-P

## **DEPARTMENT OF COMMERCE**

### **International Trade Administration**

[A-552-802]

[A-570-893]

#### **Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam and the People's Republic of China: Extension of Preliminary Results of Antidumping Duty Administrative Reviews**

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

**SUMMARY:** The Department of Commerce ("Department") is extending the time limit for the preliminary results of the administrative reviews of certain frozen warmwater shrimp from the Socialist Republic of Vietnam ("Vietnam") and the People's Republic of China ("PRC"). The reviews cover the period February 1, 2008, through January 31, 2009.

**EFFECTIVE DATE:** October 27, 2009.

**FOR FURTHER INFORMATION CONTACT:** Bobby Wong, Susan Pulongbarit, or Irene Gorelik, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482-0409, (202) 482-4031, or (202) 482-482-6905, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On March 26, 2009, the Department published a notice of initiation of the administrative reviews of the antidumping duty orders on certain frozen shrimp from Vietnam and the PRC. *See Notice of Initiation of Administrative Reviews and Requests for Revocation in Part of the Antidumping Duty Orders on Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam and the People's Republic of China*, 74 FR 13178 (March 26, 2009). The preliminary results of the reviews are currently due no later than October 31, 2009.

##### **Statutory Time Limits**

In antidumping duty administrative reviews, section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order for which a review is requested and a final determination within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within these time

periods, section 751(a)(3)(A) of the Act allows the Department to extend the time limit for the preliminary determination to a maximum of 365 days after the last day of the anniversary month.

#### **Extension of Time Limit for Preliminary Results of Review**

We determine that it is not practicable to complete the preliminary results of these administrative reviews within the original time limit because the Department requires additional time to analyze questionnaire responses, issue supplemental questionnaires, conduct verification, and to evaluate surrogate value submissions for purposes of the preliminary results.

Therefore, the Department is extending the time limit for completion of the preliminary results of the administrative reviews by 120 days. The preliminary results will now be due no later than March 1, 2010, the first business day following 120 days from the current deadline. The final results continue to be due 120 days after the publication of the preliminary results.

We are issuing and publishing this notice in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: October 20, 2009.

**John M. Andersen,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. E9-25856 Filed 10-26-09; 8:45 am]

BILLING CODE 3510-DS-S

## **DEPARTMENT OF COMMERCE**

### **International Trade Administration**

[C-580-818]

#### **Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review**

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

**SUMMARY:** On September 8, 2009, the U.S. Department of Commerce (the Department) published in the **Federal Register** its preliminary results of the administrative review of the countervailing duty (CVD) order on corrosion-resistant carbon steel flat products (CORE) from the Republic of Korea (Korea) for the period of review (POR) January 1, 2007, through December 31, 2007. *See Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review*, 74 FR 46100