

Valin Xiangtan with the opportunity to resubmit its FOP database to correct its data with respect to these items after the preliminary results.

#### Currency Conversion

Where applicable, we made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank. See <http://www.ia.ita.doc.gov/exchange/index.html>.

#### Preliminary Results of Review

We preliminarily determine that the following dumping margin exists for the period November 1, 2007, through October 31, 2008:

#### CERTAIN CUT-TO-LENGTH CARBON STEEL PLATE FROM THE PRC

Exporter	Ad Valorem Margin
Hunan Valin Xiangtan Iron & Steel Co. Ltd.	0.00 percent

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of publication of this notice. Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in case and rebuttal briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 14<sup>th</sup> Street and Constitution Avenue, NW, Washington, DC 20230. See 19 CFR 351.310(c).

In order to allow parties time to comment on the export license scheme discussed above and to submit publicly-available information to value FOPs, case briefs from interested parties may be submitted not later than 45 days after the date of publication of this notice, pursuant to 19 CFR 351.309(c). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days later, pursuant to 19 CFR 351.309(d). Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument (1) a

statement of the issue and (2) a brief summary of the argument. Parties are also encouraged to provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

The Department will issue the final results of this review, including the results of its analysis of issues raised in any such written briefs, not later than 120 days after the date of publication of this notice.

#### Assessment Rates

The Department will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. For assessment purposes, we calculated exporter/importer- (or customer) -specific assessment rates for merchandise subject to this review. Where appropriate, we calculated an *ad valorem* rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total entered values associated with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting *ad valorem* rate against the entered customs values for the subject merchandise. Where appropriate, we calculated a per-unit rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total sales quantity associated with those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting per-unit rate against the entered quantity of the subject merchandise. Where an importer- (or customer) -specific assessment rate is *de minimis* (i.e., less than 0.50 percent), the Department will instruct CBP to assess that importer (or customer's) entries of subject merchandise without regard to antidumping duties. We intend to instruct CBP to liquidate entries containing subject merchandise exported by the PRC-wide entity at the PRC-wide rate we determine in the final results of this review. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this review.

#### Cash-Deposit Requirements

The following cash-deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the

publication date, as provided by section 751(a)(2)(C) of the Act: (1) for Valin Xiangtan, the cash deposit rate will be that established in the final results of this review, except if the rate is zero or *de minimis* no cash deposit will be required; (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 128.59 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice serves as a preliminary 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 antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.213.

Dated: August 3, 2009.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

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#### DEPARTMENT OF COMMERCE

#### International Trade Administration

[A-549-821]

#### Polyethylene Retail Carrier Bags from Thailand: Preliminary Results of Antidumping Duty Administrative Review

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

**SUMMARY:** In response to requests from interested parties, the Department of Commerce (the Department) is conducting an administrative review of

the antidumping duty order on polyethylene retail carrier bags (PRCBs) from Thailand. The review covers two exporters/producers. The period of review is August 1, 2007, through July 31, 2008.

We invite interested parties to comment on these preliminary results. Parties who submit comments in this review are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

**EFFECTIVE DATE:** August 10, 2009.

**FOR FURTHER INFORMATION CONTACT:**

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

**SUPPLEMENTARY INFORMATION:**

**Background**

On August 9, 2004, the Department published in the **Federal Register** the antidumping duty order on PRCBs from Thailand. See *Antidumping Duty Order: Polyethylene Retail Carrier Bags From Thailand*, 69 FR 48204 (August 9, 2004). On September 30, 2008, we published a notice of initiation of an administrative review of seven companies. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 73 FR 56795, 56796 (September 30, 2008).<sup>1</sup> On January 7, 2009, we rescinded the administrative review with respect to C.P. Packaging Co., Ltd., C.P. Poly-Industry Co., Ltd., Naraipak Co., Ltd., Nari Packaging (Thailand) Ltd., and Poly Plast (Thailand) Co., Ltd. See *Polyethylene Retail Carrier Bags from Thailand: Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 682 (January 7, 2009). Since initiation of the review, we extended the due date for completion of these preliminary results. See *Polyethylene Retail Carrier Bags From Malaysia, Thailand, and the People's Republic of China: Extension of Time Limit for Preliminary Results of*

*Antidumping Duty Administrative Reviews*, 74 FR 17633 (April 16, 2009), and *Polyethylene Retail Carrier Bags from Thailand: Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 74 FR 32885 (July 2, 2009).

The period of review (POR) is August 1, 2007, through July 31, 2008. We are conducting this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

**Scope of the Order**

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

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

As a result of changes to the Harmonized Tariff Schedule of the United States (HTSUS), imports of the subject merchandise are currently classifiable under statistical category 3923.21.0085 of the HTSUS. Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

**Duty Absorption**

On October 30, 2008, the petitioners<sup>2</sup> requested that the Department

determine whether antidumping duties had been absorbed during the POR by the respondents. Section 751(a)(4) of the Act provides for the Department to determine, if requested, during an administrative review initiated two or four years after the publication of the order whether antidumping duties have been absorbed by a foreign producer or exporter if the subject merchandise is sold in the United States through an affiliated importer. With respect to TPBG, it did not sell subject merchandise in the United States through an affiliated importer. Therefore, it is not appropriate to make a duty-absorption determination in this segment of the proceeding within the meaning of section 751(a)(4) of the Act. See *Agro Dutch Industries Ltd. v. United States*, 508 F.3d 1024, 1033 (Fed. Cir. 2007).

As discussed in the "Use of Adverse Facts Available" section of this notice below, Master Packaging did not respond to our antidumping questionnaire. Because Master Packaging is the sole respondent with possible sales to unaffiliated customers in the United States through an affiliated importer and because this review was initiated four years after the publication of the order, we have made a duty-absorption determination concerning Master Packaging in this segment of the proceeding in accordance with section 751(a)(4) of the Act.

In determining whether the antidumping duties have been absorbed by the respondent during the POR, we presume the duties will be absorbed for those sales that have been made at less than normal value. This presumption can be rebutted with evidence (e.g., an agreement between the affiliated importer and unaffiliated purchaser) that the unaffiliated purchaser will pay the full duty ultimately assessed on the subject merchandise. See, e.g., *Certain Stainless Steel Butt-Weld Pipe Fittings From Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part*, 70 FR 39735, 39737 (July 11, 2005).

On May 21, 2009, the Department gave Master Packaging an opportunity to submit evidence demonstrating that its U.S. purchasers will pay any antidumping duties ultimately assessed on entries during the POR. Master Packaging did not provide any such evidence. Because Master Packaging did not rebut the duty-absorption presumption with evidence that the unaffiliated purchaser will pay the full duty ultimately assessed on the subject merchandise, we preliminarily find that

<sup>1</sup> We stated that the review covers the following companies: C.P. Packaging Co., Ltd., C.P. Poly-Industry Co., Ltd., Master Packaging Co., Ltd. (Master Packaging), Naraipak Co., Ltd., Nari Packaging (Thailand) Ltd., Poly Plast (Thailand) Ltd., and Thai Plastic Bags Industries Co., Ltd. *Id.* The Department has determined previously that Thai Plastic Bags Industries Co., Ltd., APEC Film Ltd., and Winner's Pack Co., Ltd., comprise the Thai Plastic Bags Group (TPBG). See *Notice of Final Determination of Sales at Less than Fair Value: Polyethylene Retail Carrier Bags From Thailand*, 69 FR 34122, 34123 (June 18, 2004).

<sup>2</sup> The petitioners are the Polyethylene Retail Carrier Bag Committee and its individual members, Hilex Poly Co., LLC, and Superbag Corporation.

antidumping duties have been absorbed by Master Packaging on all U.S. sales.

#### Verification

As provided in section 782(i) of the Act, we have verified sales and cost information provided by TPBG using standard verification procedures, including on-site inspection of the manufacturers' facilities, the examination of relevant sales and financial records, and the selection of original documentation containing relevant information. Our verification results are outlined in the public version of the verification report, dated July 9, 2009, which is on file in the Central Records Unit, room 1117 of the main Commerce building.

#### Use of Adverse Facts Available

Section 776(a) of the Act provides that, if necessary information is not available on the record or if an interested party (1) withholds information that has been requested by the Department, (2) fails to provide such information by the deadlines established, or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act, (3) significantly impedes the proceeding, or (4) provides such information but the information cannot be verified, the Department shall use, subject to section 782(d) of the Act, the facts otherwise available in reaching the applicable determination.

Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if that information is necessary to the determination but does not meet all of the requirements established by the Department, provided that 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. Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department shall promptly inform the person submitting the response of the nature of the deficiency and shall provide that person, to the extent practicable, with an opportunity to remedy or explain the deficiency in light of the time limits established for the completion of the administrative review.

In addition, section 776(b) of the Act provides that, if the Department finds that an interested party "has failed to cooperate by not acting to the best of its ability to comply with a request for information," the Department may use information that is adverse to the interests of that party as facts otherwise available. The purpose of the adverse call, as explained in the Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H. Doc. 316, Vol. 1, 103d Cong. (1994) (SAA), is "to ensure that the party does not obtain a more favorable result by failing to cooperate 'to the best of its ability' than if it had cooperated fully." See SAA at 870. Further, as explained in the SAA, in employing adverse inferences the Department will consider "the extent to which a party may benefit from its own lack of cooperation." *Id.*

On November 25, 2008, we sent a questionnaire to Master Packaging seeking information related to Master Packaging's corporate structure and its production and sales of PRCBs, information which is necessary for us to complete the administrative review. Although we have evidence that Master Packaging received the questionnaire, Master Packaging did not respond to the questionnaire.

Because Master Packaging has failed to provide the information we requested and thus has significantly impeded this proceeding, we must use facts available to establish its dumping margin. See section 776(a) of the Act. Furthermore, because Master Packaging could have provided correct and verifiable data about its corporate structure, production, and sales but did not do so, we determine that Master Packaging has failed to cooperate by not acting to the best of its ability. Therefore, we conclude that the use of an adverse inference is warranted with respect to Master Packaging. See section 776(b) of the Act and *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382–83 (Fed. Cir. 2003).

As adverse facts available (AFA), we have preliminarily assigned Master Packaging a dumping margin of 122.88 percent, the highest rate found in the less-than-fair-value investigation. See *Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags From Thailand*, 69 FR 34122, 34125 (June 18, 2004) (*Final LTFV*). We applied this rate in the less-than-fair-value investigation as well as in each successive administrative review. See *Final LTFV*, 69 FR at 34123–34124, *Polyethylene Retail Carrier Bags From Thailand: Final Results of Antidumping Duty Administrative Review*, 72 FR 1982,

1983 (January 17, 2007), *Polyethylene Retail Carrier Bags from Thailand: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 64580 (November 16, 2007) (*2005–2006 Final Results*), and *Polyethylene Retail Carrier Bags from Thailand: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 2511, 2512 (January 15, 2009) (*2006–2007 Final Results*). In *2006–2007 Final Results*, we applied this rate to Master Packaging. *Id.*

When a respondent is not cooperative, such as Master Packaging in this case, the Department has the discretion to presume that the highest prior margin reflects the current margins. See *Ta Chen Stainless Steel Pipe, Inc. v. United States*, 298 F.3d 1330, 1339 (Fed. Cir. 2002) (citing *Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185, 1190 (Fed. Cir. 1990)). If this were not the case, the party would have produced current information showing the margin to be less. See *Rhone Poulenc*, 899 F.2d at 1190. Further, by using the highest prior antidumping duty margin, we offer the assurance that the exporter will not benefit from refusing to provide information. Further, when possible, we apply an antidumping duty rate that bears some relationship to past practices by this company, as it is part of the industry in question. See *Shanghai Taoen Int'l Trading Co. v. United States*, 360 F. Supp. 2d 1339, 1346 (CIT 2005) (citing *D&L Supply Co. v. United States*, 113 F.3d 1220, 1223 (Fed. Cir. 1997)).

Section 776(c) of the Act requires that, to the extent practicable, the Department corroborate secondary information from independent sources that are reasonably at its disposal. Secondary information is defined as "information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise." See SAA at 870. As clarified in the SAA, "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value. See *id.* To corroborate secondary information, the Department will examine, to the extent practicable, the reliability and relevance of the information. See *2006–2007 Final Results* and accompanying Issues and Decision Memorandum at Comment 1. As emphasized in the SAA, however, the Department need not prove that the selected facts available are the best alternative information. See SAA at 869. Further, 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 or review. See 19 CFR 351.308(d) and SAA at 870, 1994 U.S.C.C.A.N. at 4199.

With respect to the reliability aspect of corroboration, the Department found the rate of 122.88 percent to be reliable in the investigation. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Polyethylene Retail Carrier Bags from Thailand*, 69 FR 3552, 3553–3554 (January 26, 2004) (unchanged in *Final LTFV*). There, the Department stated that the rate was calculated from source documents included with the petition, namely, a price quotation for various sizes of PRCBs commonly produced in Thailand, import statistics, and affidavits from company officials, all from a different Thai producer of subject merchandise. Because the information is supported by source documents, we preliminarily determine that the information is still reliable. See Memorandum to the File entitled “Polyethylene Retail Carrier Bags from Thailand: Inclusion of Memorandum, dated January 16, 2004, to the record of this administrative review” dated August 3, 2009 (AFA Memorandum).

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. In the investigation, the Department determined that, because the price quote reflected commercial practices of the particular industry during the period of investigation, the information was relevant to mandatory respondents which refused to participate in the investigation. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Polyethylene Retail Carrier Bags from Thailand*, 69 FR at 3553–3554 and AFA Memorandum. No party contested the application of that rate in the investigation. *Id.* Furthermore, the rate of 122.88 percent is the current rate for Master Packaging and has been applied to other producers/exporters since the less-than-fair-value investigation. Therefore, we find this rate continues to have relevance.

#### Export Price

For the price to the United States for TPBG, we used export price (EP) as defined in section 772(a) of the Act. We calculated EP based on the packed

delivery terms Free on Board, Cost, Insurance, and Freight, or delivered price to unaffiliated purchasers in, or for exportation to, the United States. See section 772(c) of the Act. We made deductions, as appropriate, for discounts and rebates. See section 772(d) of the Act. We also made deductions for any movement expenses in accordance with section 772(c)(2)(A) of the Act. We made adjustments to U.S. sales information to reflect minor corrections and findings as the result of verification. For a detailed explanation of these adjustments, see Memorandum entitled “Polyethylene Retail Carrier Bags from Thailand Thai Plastic Bags Industries Group (TPBG), Preliminary Results Analysis Memorandum 8/1/07 – 7/31/08,” dated August 3, 2009 (Analysis Memo).

#### Comparison–Market Sales

Based on a comparison of the aggregate quantity of home–market and U.S. sales and absent any information that a particular market situation in the exporting country did not permit a proper comparison, we determined that the quantity of foreign like product sold by TPBG in Thailand was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a) of the Act. TPBG’s quantity of sales in Thailand was greater than five percent of its quantity of sales to the U.S. market. See section 773(a)(1) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based normal value on the prices at which the foreign like product was first sold for consumption in Thailand in the usual commercial quantities and in the ordinary course of trade and at the same level of trade as the U.S. sales. We made adjustments to the home–market sales information to reflect minor corrections and findings at verification. For a detailed explanation of these adjustments, see Analysis Memo.

#### Sales Outside the Ordinary Course of Trade

The Department has determined preliminarily that certain home–market sales are outside the ordinary course of trade as defined by section 771(15) of the Act. Specifically, we have determined that the conditions and practices surrounding these sales are not normal in the trade under consideration. For a detailed discussion of the facts and circumstances concerning these sales, see Analysis Memo. Accordingly, pursuant to section 773(a)(1)(B)(i), we have excluded these sales from our calculation of normal value.

#### Cost of Production

In accordance with section 773(b) of the Act, we disregarded the below–cost sales of TPBG in the most recently completed administrative review of this company. See *2005–2006 Final Results*, 72 FR at 64581. Therefore, we have reasonable grounds to believe or suspect that TPBG’s sales of the foreign like product under consideration for the determination of normal value in this review may have been made at prices below the cost of production (COP) as provided by section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we have conducted a COP analysis of TPBG’s sales in the comparison market in this review.

In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product, the selling, general, and administrative (SG&A) expenses, and all costs and expenses incidental to packing the merchandise. In our COP analysis, we used the comparison–market sales and COP information TPBG provided in its questionnaire responses.

We have determined preliminarily that TPBG’s allocation of its costs results in products with few or minor physical differences having significantly different costs of manufacturing assigned to them. While TPBG asserts that its focus is on export sales, it is unreasonable to attribute the starts and stoppages resulting from this focus, and associated inefficiencies, mainly to the home–market products. By TPBG’s own admission, the cost differences are not due to production activities or requirements of the domestic and U.S. products. Accordingly, in accordance with our practice, for these preliminary results of review we have revised TPBG’s reported direct labor, variable overhead, and fixed overhead to eliminate cost differences attributable to factors other than physical characteristics. See *Stainless Steel Bar from the United Kingdom: Final Results of Antidumping Duty Administrative Review*, 72 FR 43598 (August 6, 2007), and accompanying Issues and Decision Memorandum at Comment 1. See also *Notice of Final Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon–Quality Steel Products From Japan*, 64 FR 24329 (May 6, 1999) at Comment 22, and *Notice of Final Determination of Sales at Less Than Fair Value: Small Diameter Circular Seamless Carbon and Alloy Steel, Standard, Line and Pressure Pipe From Brazil*, 60 FR 31960 (June 19, 1995), at Comment 2. For a detailed

explanation of these adjustments, see Analysis Memo.

TPBG provided information in its questionnaire responses showing that it purchased resin inputs from an affiliated party. We consider resin to be a major input and therefore have applied the major-input rule to value such purchases. Accordingly, pursuant to section 773(f)(3) of the Act and 19 CFR 351.407(b), we adjusted TPBG's resin costs.

After calculating the COP in accordance with section 773(b)(1) of the Act, we tested whether comparison-market sales of the foreign like product were made at prices below the COP within an extended period of time in substantial quantities and whether such prices permitted the recovery of all costs within a reasonable period of time. See section 773(b)(2) of the Act. We compared model-specific COPs to the reported comparison-market prices less any applicable movement charges, discounts, and rebates.

Pursuant to section 773(b)(2)(C) of the Act, when less than 20 percent of TPBG's sales of a given product were made at prices less than the COP, we did not disregard any below-cost sales of that product because the below-cost sales were not made in substantial quantities within an extended period of time. When 20 percent or more of TPBG's sales of a given product during the POR were made at prices less than the COP, we disregarded the below-cost sales because they were made in substantial quantities within an extended period of time pursuant to sections 773(b)(2)(B) and (C) of the Act and because, based on comparisons of prices to weighted-average COPs for the POR, we determined that these sales were at prices which would not permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act.

#### Model-Matching Methodology

In making our comparisons of U.S. sales with sales of the foreign like product in the home market, we used the following methodology. If an identical comparison-market model with identical physical characteristics as listed below was reported, we made comparisons to weighted-average comparison-market prices that were based on all sales which passed the COP test of the identical product during a contemporaneous month. If there were no contemporaneous sales of an identical model, we identified the most similar comparison-market model. To determine the most similar model, we matched the foreign like product based on physical characteristics reported by

the respondent in the following order of importance: (1) quality, (2) bag type, (3) length, (4) width, (5) gusset, (6) thickness, (7) percentage of high-density polyethylene resin, (8) percentage of low-density polyethylene resin, (9) percentage of low linear-density polyethylene resin, (10) percentage of color concentrate, (11) percentage of ink coverage, (12) number of ink colors, and (13) number of sides printed.

#### Normal Value

The Department may calculate normal value based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales at arm's-length prices. See section 773(f)(2) of the Act and 19 CFR 351.403(c). Where affiliated-party sales were reported, we excluded from our analysis sales to affiliated customers for consumption in the comparison market that we determined not to be at arm's-length prices. To test whether these sales were made at arm's-length prices, we compared the prices of sales of comparable merchandise to affiliated and unaffiliated customers, net of all rebates, movement charges, direct selling expenses, and packing. Pursuant to 19 CFR 351.403(c) and in accordance with our practice, when the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise comparable to that sold to the affiliated party, we determined that the sales to the affiliated party were at arm's-length prices. See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002) (explaining the Department's practice). We included those sales to affiliated parties that were made at arm's-length prices in our calculations of normal value.

Comparison-market prices were based on the packed, ex-factory, or delivered prices to affiliated or unaffiliated purchasers. When applicable, we made adjustments for differences in packing and for movement expenses in accordance with sections 773(a)(6)(A) and (B) of the Act. We also 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 and 19 CFR 351.411, adjusted as described in the "Cost of Production" section above, and for differences in circumstances of sale in accordance with section

773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. For comparisons to EP, we made circumstance-of-sale adjustments by deducting comparison-market direct selling expenses from and adding U.S. direct selling expenses to normal value. We also made adjustments, if applicable, for comparison-market indirect selling expenses to offset U.S. commissions in EP calculations.

In accordance with section 773(a)(1)(B)(i) of the Act, we based normal value at the same level of trade as the EP sales. See the "Level of Trade" section below.

#### 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 contemporaneous comparable 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, adjusted as described in the "Cost of Production" section above, SG&A 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 and profit on the amounts incurred and realized by TPBG in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the comparison 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 and level-of-trade differences. For comparisons to EP, we made circumstance-of-sale adjustments by deducting comparison-market direct selling expenses from and adding U.S. direct selling expenses to constructed value. We also made adjustments, when applicable, for comparison-market indirect selling expenses to offset U.S. commissions in EP comparisons. We calculated constructed value at the same level of trade as the EP. For a detailed explanation of the calculations, as well as adjustments to reflect minor verification findings, see Analysis Memo.

#### Level of Trade

To the extent practicable, we determined normal value for sales at the same level of trade as the U.S. sales. The normal-value level of trade is that of the starting-price sales in the comparison market. When normal value is based on constructed value, the level of trade is

that of the sales from which we derived SG&A and profit.

To determine whether comparison-market sales are at a different level of trade than U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. This analysis revealed that there were not any significant differences in selling functions between different channels of distribution or customer type in either its comparison or U.S. markets. Therefore, we determined that TPBG made all comparison-market sales at one level of trade. Moreover, we determined that all comparison-market sales by TPBG were made at the same level of trade as its EP sales. For a more detailed discussion, see Analysis Memo.

### Preliminary Results of Review

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

Producer/Exporter	Percent Margin
TPBG .....	22.02
Master Packaging .....	122.88

### Comments

We will disclose the calculations used in our analysis to interested parties to this review within five days of the date of publication of this notice. See 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of the date of publication of this notice. See 19 CFR 351.310. Interested parties who wish to request a hearing or to participate in a hearing if a hearing is requested must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of publication of this notice. Requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; (3) a list of issues to be discussed. See 19 CFR 351.310(c).

Issues raised in the hearing will be limited to those raised in the case briefs. See 19 CFR 351.310(c). Case briefs from interested parties may be submitted not later than 30 days after the date of publication of this notice of preliminary results of review. See 19 CFR 351.309(c)(1)(ii). Rebuttal briefs from interested parties, limited to the issues

raised in the case briefs, may be submitted not later than five days after the time limit for filing the case briefs or comments. See 19 CFR 351.309(d)(1). If requested, any hearing will be held two days after the scheduled date for submission of rebuttal briefs. See 19 CFR 351.310(d). Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument a statement of the issue, a summary of the arguments not exceeding five pages, and a table of statutes, regulations, and cases cited. See 19 CFR 351.309(c)(2). The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice. See section 751(a)(3)(A) of the Act.

### Assessment Rates

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated for TPBG an exporter/importer (or customer)-specific assessment value for merchandise subject to this review by dividing the total dumping margin (calculated as the difference between normal value and EP) for each importer or customer by the total number of units the exporter sold to that importer or customer. We will instruct CBP to assess the resulting per-unit amount against each unit of merchandise in each of that importer's/customer's entries during the POR.

The Department clarified its "automatic assessment" regulation on May 6, 2003. See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment of Antidumping Duties*). This clarification applies to entries of subject merchandise during the POR produced by TPBG for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Assessment of Antidumping Duties*.

For Master Packaging, because we are relying on total AFA to establish a dumping margin, we will instruct CBP

to apply 122.88 percent to all entries of subject merchandise during the POR that were produced and/or exported by Master Packaging.

We intend to issue liquidation instructions to CBP 15 days after publication of the final results of review.

### Cash-Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of PRCBs from Thailand entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2) of the Act: (1) the cash-deposit rates for the reviewed companies will be the rates established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation but the manufacturer is, the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) if neither the exporter nor the manufacturer has its own rate, the cash-deposit rate will be 2.80 percent, the all-others rate for this proceeding. These deposit requirements, when imposed, shall remain in effect until further notice.

### Notification to Importer

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

These preliminary results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 3, 2009.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

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