

collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

**DATES:** Written comments must be submitted on or before November 13, 2006.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at [dhynnek@doc.gov](mailto:dhynnek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Erica M. Filipek, Census Bureau, Room 2105, FOB 4, Washington, DC 20233–6900, (301) 763–5160 (or via the Internet at [erica.mary.filipek@census.gov](mailto:erica.mary.filipek@census.gov)).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Abstract**

The Census Bureau plans to request a three year extension of a currently approved collection of the Form C–404, Building Permits Survey. The Census Bureau produces statistics used to monitor activity in the large and dynamic construction industry. Given the importance of this industry, several of the statistical series are key economic indicators. Two such series are (a) Housing Units Authorized by Building Permits and (b) Housing Starts. Both are based on data from samples of permit-issuing places. These statistics help state and local governments and the Federal Government, as well as private industry, to analyze this important sector of the economy.

The Census Bureau uses Form C–404 to collect data to provide estimates of the number and valuation of new residential housing units authorized by building permits. We use the data, a component of the index of leading economic indicators, to estimate the number of housing units started, completed, and sold, if single-family, and to select samples for the Census Bureau's demographic surveys. Policymakers, planners, businessmen/women, and others use the detailed geographic data collected from state and local officials on new residential construction authorized by building permits to monitor growth and plan for local services and to develop production and marketing plans. The Building Permits Survey is the only source of statistics on residential construction for states and smaller geographic areas. Building permits are public records so

the information is not subject to disclosure restrictions.

##### **II. Method of Collection**

The Census Bureau collects this information by mail and electronically through files we download or receive on diskettes or via e-mail.

The survey universe is comprised of approximately 19,450 local governments that issue building permits. Monthly, we collect this information by mail for about 8,200 permit-issuing jurisdictions and electronically for about 625 jurisdictions. Annually, we collect this information by mail for the remaining 10,625 jurisdictions.

##### **III. Data**

*OMB Number:* 0607–0094.

*Form Number:* C–404.

*Type of Review:* Regular submission.

*Affected Public:* State and local governments.

*Estimated Number of Respondents:* 19,450.

*Estimated Time per Response:* 8 minutes for monthly respondents who report by mail, 3 minutes for monthly respondents who report electronically, and 23 minutes for annual respondents who report by mail.

*Estimated Total Annual Burden Hours:* 17,568.

*Estimated Total Annual Cost:* \$339,042.

*Respondent's Obligation:* Voluntary.

*Legal Authority:* Title 13, United States Code, Section 182.

##### **Request for Comments**

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: September 7, 2006.

**Madeleine Clayton,**

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

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#### **DEPARTMENT OF COMMERCE**

##### **International Trade Administration**

**[A–570–886]**

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

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

**SUMMARY:** The Department of Commerce (“the Department”) is conducting an administrative review of the antidumping duty order on polyethylene retail carrier bags (“PRCBs”) from the People's Republic of China (“PRC”) covering the period January 26, 2004, through July 31, 2005. We have preliminarily determined that sales have been made below normal value (“NV”) by Crown Polyethylene Products (International) Ltd. (“Crown”), High Den Enterprises Ltd. (“High Den”), and Dongguan Nozawa Plastic Products Co. Ltd. and United Power Packaging Ltd. (collectively, “Nozawa”).<sup>1</sup> If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection (“CBP”) to assess antidumping duties on all appropriate entries of subject merchandise during the period of review (“POR”).

Interested parties are invited to comment on these preliminary results. We intend to issue the final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (“the Act”).

**EFFECTIVE DATE:** September 13, 2006.

##### **FOR FURTHER INFORMATION CONTACT:**

Laurel LaCivita or Matthew Quigley, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution

<sup>1</sup> The Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part, 70 FR 56634, 56635 (September 28, 2005) (“Initiation Notice”) refers to Nozawa with the following names: Dongguan Nozawa Plastics and United Power Packaging (collectively “Nozawa”), Dongguan Nozawa Plastics, Dongguan Nozawa Plastic Co., Ltd., Dong Guan (Dong Wan) Nozawa Plastic Co., Ltd., Dongguan Nozawa Plastic Products Co., Ltd., United Power Packaging, United Power Packaging Limited, United Power Packaging Ltd.

Avenue, NW, Washington, DC 20230; telephone: (202) 482-4243 or (202) 482-4551, respectively.

**SUPPLEMENTARY INFORMATION:** On August 9, 2004, the Department published the antidumping duty order on PRCBs from the PRC. *See Antidumping Duty Order: Polyethylene Retail Carrier Bags From the People's Republic of China*, 69 FR 48201 (August 9, 2004).

On August 1, 2005, the Department published a notice of opportunity to request an administrative review of this order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 70 FR 44085 (August 1, 2005). In accordance with 19 CFR 351.213(b)(1), the following requests were made: (1) on August 12, 2005, Crown, a Chinese producer and exporter of the subject merchandise, requested that the Department conduct an administrative review of its sales; (2) on August 26, 2005, Nozawa, a Chinese producer and exporter of the subject merchandise, requested that the Department conduct an administrative review of its sales; (3) on August 29, 2005, Rally Plastics Co., Ltd. ("Rally"), Sea Lake Polyethylene Enterprise Ltd. ("Sea Lake"), Shanghai Glopac, Inc. ("Glopac"), and High Den, Chinese producers and/or exporters of the subject merchandise, requested that the Department conduct an administrative review of their sales; (4) on August 29, 2005, High Den also requested a new shipper review; (5) on August 30, 2005, Shanghai New Ai Lian Import & Export Co., Ltd. ("New Ai Lian"), a Hong Kong company that exported PRCBs that were manufactured in the PRC, requested that the Department conduct an administrative review of its sales to the United States; and, (6) on August 31, 2005, Ampac Packaging (Nanjing) Co. ("Ampac") requested that the Department conduct a new shipper review and, in the alternative, an administrative review of its sales during the POR. On September 20, 2005, High Den withdrew its request for a new shipper review of its sales to the United States during the POR.

On September 28, 2005, the Department initiated this administrative review with respect to Nozawa, Crown, Rally, Sea Lake, Glopac, High Den, and New Ai Lian. *See Initiation Notice*.

On September 30, 2005, the Department issued a letter denying Ampac's request for a new shipper review and stating that it would conduct an administrative review of Ampac's sales during the POR. The Department issued antidumping duty questionnaires to all of the above-named respondents

on October 21, 2005. On October 25, 2005, the Department amended its initiation to include Ampac, which was inadvertently omitted from the September 28, 2005, initiation notice. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 70 FR 61601 (October 25, 2005).

On November 11, 2005, Nozawa, High Den, Glopac, Sea Lake and Crown submitted Section A questionnaire responses ("AQRs"). On November 16, 2005, New Ai Lian withdrew its request for an administrative review. On November 22, 2005, Rally withdrew its request for an administrative review. On November 29, 2005, Nozawa submitted comments arguing that it was unnecessary for its U.S. affiliate, Packaging Solutions Inc. ("PSI"), to submit Section E information concerning further manufacturing that occurred in the United States during the POR.

On December 19, 2005, the Department requested the Office of Policy to provide a list of surrogate countries for this review. *See Memorandum to Ron Lorentzen, Acting Director, Office of Policy, through Wendy Frankel, Director, AD/CVD Enforcement, from Matthew Quigley, International Trade Compliance Analyst, "Polyethylene Retail Carrier Bags from the People's Republic of China: Request for Surrogate Country Selection"* (December 19, 2005). On December 20, 2005, the Office of Policy issued its list of surrogate countries. *See the Memorandum from Ron Lorentzen, Director, Office of Policy, to Wendy Frankel, Director, China/NME Group, Office 8, "Antidumping Duty Administrative Review of Polyethylene Retail Carrier Bags ("Bags") from the People's Republic of China ("PRC"): Request for a List of Surrogate Countries"* (December 20, 2005) ("Policy Memorandum").

On December 23, 2005, High Den, Crown, Glopac, Sea Lake and Nozawa submitted Sections C and D questionnaire responses ("CQR" and "DQR"). On the same date, Crown submitted a sales and factors of production reconciliation under a separate cover, and Nozawa submitted a Section E questionnaire response ("EQR"). On December 27, 2005, Sea Lake and Glopac withdrew their requests for an administrative review.

On January 6, 2006, a domestic interested party, the Polyethylene Retail Carrier Bag Committee ("PRCB Committee") and its individual members, Hilex Poly Co., LLC and Superbag Corp., requested that the Department verify Crown, High Den and

Nozawa. On February 23, 2006, Ampac withdrew its request for an administrative review.

The Department issued supplemental questionnaires to Crown and High Den on March 15, 2006. On March 24, 2006, the PRCB Committee, Crown, and High Den provided information concerning the appropriate surrogate values to use in valuing respondents' factors of production ("FOP"). No other parties submitted information concerning the valuation of respondents' FOPs during the POR.

On April 12, 2006, High Den and Crown submitted supplemental questionnaire responses ("SQRs"). On April 14, 2006, the Department issued a supplemental questionnaire to Nozawa. On April 21, 2006, the PRCB Committee submitted comments concerning the surrogate country selection. No other interested party submitted surrogate country selection comments. The PRCB Committee, on April 28, 2006, submitted an allegation that High Den's sales to the United States during the POR were not *bona fide*.

On April 27, 2006, the Department published a notice extending the deadline for the preliminary results of this administrative review. *See Polyethylene Retail Carrier Bags from the People's Republic of China: Extension of Time Limit for the Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 24839 (April 27, 2006). On May 24, 2006, the Department published a partial rescission of the instant administrative review with respect to Sea Lake, Glopac, Shanghai New Ai Lian, Rally and Ampac. *See Polyethylene Retail Carrier Bags From the People's Republic of China: Notice of Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 29915 (May 24, 2006).

On June 5, 2006, Nozawa submitted its SQR and on June 6, 2006, it provided revisions to that submission. On July 17, 2006, the Department issued a third supplemental questionnaire to High Den. On July 26, 2006, Nozawa provided the publicly available audited financial statements of four Indian producers of identical or comparable merchandise which it proposed be used as the basis of surrogate financial ratios in the calculation of the antidumping duty margin. On August 7, 2006, the PRCB Committee provided publicly available factual information concerning the Indian producers referenced in Nozawa's July 26, 2006, submission. In addition, on August 7, 2006, Nozawa provided additional information concerning the source and public availability of the financial statements

provided in its July 26, 2006, submission.

On August 23, 2006, the Department further extended the deadline for the preliminary results of this administrative review. *See Polyethylene Retail Carrier Bags from the People's Republic of China: Extension of Time Limit for the Preliminary Results of Antidumping Review*, 71 FR 49417 (August 23, 2006).

#### Period of Review

The POR is January 26, 2004, through July 31, 2005.

#### Scope of the Order

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

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

Imports of the subject merchandise are currently classifiable under statistical category 3923.21.0085 of the Harmonized Tariff Schedule of the United States (HTSUS).<sup>2</sup> This subheading may also cover products that are outside the scope of this investigation. Furthermore, although the

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

#### Non-Market Economy Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as a non-market economy ("NME") country. Pursuant to section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. *See e.g., Brake Rotors From the People's Republic of China: Preliminary Results and Partial Rescission of the 2004/2005 Administrative Review and Preliminary Notice of Intent To Rescind the 2004/2005 New Shipper Review* 71 FR 26736, 26739 (May 8, 2006) (unchanged in final results) and *Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Preliminary Partial Determination of Critical Circumstances: Diamond Sawblades and Parts Thereof from the People's Republic of China* 70 FR 77121, 77124 (December 29, 2005) (unchanged in final determination). No interested party in this case has contested this treatment. Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

#### Surrogate Country

Section 773(c)(1) of the Act directs the Department to base NV on the NME producer's FOPs, valued in a surrogate market-economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall use, to the extent possible, the prices or costs of the FOPs in one or more market-economy countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the "Normal Value" section below and in the Memorandum from Laurel LaCivita and Matthew Quigley, International Trade Compliance Analysts, through Charles Riggle, Program Manager, to Wendy Frankel, Director, AD/CVD Operations, Office 8, "Preliminary Results of the 2004-2005 Administrative Review of Polyethylene Retail Carrier Bags from the People's Republic of China: Surrogate Value Memorandum" (August 31, 2006) ("Surrogate Value Memorandum").

The Department has determined that India, Indonesia, Sri Lanka, the

Philippines, and Egypt are countries comparable to the PRC in terms of economic development. *See* Policy Memorandum. Customarily, we select an appropriate surrogate country from the Policy Memorandum based on the availability and reliability of data from the countries that are significant producers of comparable merchandise. In this case, we have found that: 1) India is at a level of economic development comparable to that of the PRC; and 2) India is a significant producer of comparable merchandise, and 3) India provides the best opportunity to use quality, publicly available data to value the FOPs. *See* Memorandum from Laurel LaCivita and Matthew Quigley, International Trade Compliance Analysts, through Charles Riggle, Program Manager, to Wendy Frankel, Director, AD/CVD Operations, Office 8, "Antidumping Administrative Review of Polyethylene Retail Carrier Bags: Selection of a Surrogate Country," (August 31, 2006) ("Surrogate Country Memorandum").

The Department used India as the primary surrogate country and, accordingly, has calculated NV using Indian prices to value the PRC producers' FOPs, when available and appropriate. *See* Surrogate Country Memorandum and Surrogate Value Memorandum. We have obtained and relied upon publicly available information wherever possible.

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results in an antidumping administrative review, interested parties may submit publicly available information to value FOPs within 20 days after the date of publication of the preliminary results of review.

#### Separate Rates

In proceedings involving NME countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control, and thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of subject merchandise subject to review in an NME country a single rate unless an exporter can demonstrate that it is sufficiently independent of government control to be entitled to a separate rate. *See, e.g., Honey from the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 74764, 74765 (December 16, 2005) (unchanged in final results); and *Certain Cased Pencils from the People's Republic of China: Preliminary Results of Antidumping Duty*

<sup>2</sup> Until July 1, 2005, these products were classifiable under HTSUS 3923.21.0090 (Sacks and bags of polymers of ethylene, other). *See Harmonized Tariff Schedule of the United States (2005)- Supplement 1 Annotated for Statistical Reporting Purposes Change Record - 17th Edition - Supplement 1*, available at <http://hotdocs.usitc.gov/docs/tata/hts/bychapter/0510/0510chgs.pdf>.

*Administrative Review and Intent to Rescind in Part*, 70 FR 76755, 76758 (December 28, 2005) (unchanged in final results).

To determine whether an exporter is sufficiently independent of government control to be entitled to a separate rate, the Department analyzes the exporter in light of select criteria, discussed below. See *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20585, 22587 (May 6, 1991) ("Sparklers"); and *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) ("Silicon Carbide"). Under this test, exporters in NME countries receive separate, company-specific margins when they can demonstrate an absence of government control over exports, both in law ("de jure") and in fact ("de facto").

We have considered whether the companies under review are eligible for a separate rate. The Department's separate-rate test to determine whether the exporters are independent from government control does not consider, in general, macroeconomic/border-type controls, e.g., export licenses, quotas, and minimum export prices, particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. See, e.g., *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of Antidumping Administrative Review*, 62 FR 61276, 61279 (November 17, 1997); and *Preliminary Determination of Sales at Less than Fair Value: Honey from the People's Republic of China*, 60 FR 14725, 14727-28 (March 20, 1995) (unchanged in final determination).

Crown, High Den and Nozawa each provided company-specific separate-rate information and stated that each met the standards for the assignment of separate rates. Crown, High Den and Nozawa all reported that they are privately owned trading companies based in Hong Kong, and that their suppliers are wholly foreign-owned enterprises. Therefore, an additional separate-rates analysis is not necessary to determine whether Crown's, High Den's and Nozawa's export activities are independent from government control. See e.g., *Brake Rotors From the People's Republic of China: Preliminary Results of the Tenth New Shipper Review*, 69 FR 30875, 30876 (June 1, 2004) (unchanged in final results); *Notice of Final*

*Determination of Sales at Less Than Fair Value: Creatine Monohydrate From the People's Republic of China*, 64 FR 71104 (December 20, 1999); *Preliminary Results of First New Shipper Review and First Antidumping Duty Administrative Review: Certain Preserved Mushrooms From the People's Republic of China*, 65 FR 66703, 66705 (November 7, 2000) (unchanged in final results of review); and *Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 19026, 19027 (April 30, 1996) ("Bicycles"). Further, the producers in the PRC are wholly owned by Crown, High Den and Nozawa, respectively, and are incorporated in the PRC as wholly foreign-owned companies. See Crown's QR at 2-6; High Den's AQR at 2-5; and Nozawa's AQR at 3-11.

#### Date of Sale

Section 351.401(i) of the Department's regulations states that:

in identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the normal course of business. However, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.

See also, *Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090-1093 (CIT 2001) (upholding the Department's rebuttable presumption that invoice date is the appropriate date of sale). No party has suggested the use of a date of sale other than the invoice date. See Crown's CQR at C-10; High Den's CQR at C-15; and Nozawa's CQR at C-12. Therefore, pursuant to 19 CFR 351.401(i), we will use the invoice date as the date of sale for all companies in this review.

#### Bona Fide Sales

In response to allegations by the PRCB Committee on April 28, 2006, we examined the record of this review to determine whether the sales made by High Den during the POR were bona fide. Concurrent with this notice, we are issuing a memorandum detailing our analysis of the bona fides of High Den's sales to the United States during the POR. See Memorandum from Laurel LaCivita, Senior International Trade Compliance Analyst, through Charles Riggle, Program Manager, to Wendy J. Frankel, AD/CVD Operations, Office 8 "Polyethylene Retail Carrier Bags from

the People's Republic of China: *Bona Fide* Nature of the Sales in the 2004-2005 Antidumping Duty Administrative Review of High Den Enterprises, Ltd." (August 31, 2006) ("Bona Fide Sales Memorandum").

In evaluating whether or not a sale is commercially reasonable and, therefore, *bona fide*, the Department has considered, *inter alia*, such factors as (1) the timing of the sale; (2) the price and quantity; (3) the expenses arising from the transaction; (4) whether the goods were resold at a profit; and (5) whether the transaction was at arm's length. See e.g., *Tianjin Tiancheng Pharmaceutical Co., Ltd. v. U.S.*, 366 F. Supp. 2d 1246, 1249 (CIT 2005) ("TTPC"), citing *American Silicon Technologies. v. U.S.*, 110 F. Supp. 2d 992,995 (CIT 2000). However, the analysis is not limited to these factors alone. The Department examines a number of factors, all of which may speak to the commercial realities surrounding the sale of subject merchandise. While some bona fides issues may share commonalities across various Department cases, each one is company-specific and may vary with the facts surrounding each sale. See *Certain Preserved Mushrooms From the People's Republic of China: Final Results and Partial Rescission of the New Shipper Review and Final Results and Partial Rescission of the Third Antidumping Duty Administrative Review*, 68 FR 41304 (July 11, 2003), and accompanying Issues and Decision Memorandum at 20. The weight given to each factor considered will depend on the circumstances surrounding the sale. See TTPC, 366 F. Supp. 2d at 1263.

As discussed in detail in the *Bona Fide Sales* Memorandum, the Department based its preliminary determination that the sales made by High Den were *bona fide* on the following: (1) the prices of High Den's sales were within the range of the prices of other entries of subject merchandise from the PRC into the United States during the POR; (2) the quantity of High Den's sales were within the range of the quantities of other entries of subject merchandise from the PRC into the United States during the POR; (3) High Den's sales were made to an unaffiliated party at arm's length; and (4) there is no record evidence that indicates that High Den's sales were not made based on commercial principles.

#### Application of Facts Available

Section 776(a)(1) and (2) of the Act provides that the Department shall apply "facts otherwise available" if, *inter alia*, necessary information is not on the record or an interested party or any other person (A) withholds

information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act. Section 782(c)(1) of the Act provides that if an interested party, promptly after receiving a request from the Department for information, notifies the Department that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative form in which such party is able to submit the information, the Department may modify the requirements to avoid imposing an unreasonable burden on that party. Section 782(e) of the Act states that the Department shall not decline to consider information deemed "deficient" if: (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; and (5) the information can be used without undue difficulties.

In section C (IV) (Field 2) of the November 10, 2005, questionnaire, the Department requested that Nozawa:

Assign a control number to each unique product reported in the section C sales data file. Identical products should be assigned the same control number in each record in every file in which the product is referenced. Each unique combination of product characteristics based only on fields 3.1 - 3.n should be assigned a unique control number. If the product is further manufactured in the United States, report the control number of the product *imported*, not the product sold.

On December 23, 2005, Nozawa submitted a questionnaire response to section C and responded that the control number ("CONNUMs") and physical characteristics were "N/A" for some sales. On April 14, 2006, the Department issued a supplemental questionnaire requesting that Nozawa provide CONNUMs and physical characteristics for all sales. On June 5, 2006, Nozawa reported CONNUMs with uniquely defined physical characteristics for all sales but did not report factors of production (FOP) data for all CONNUMs. On July 26, 2006, the Department issued its second

supplemental questionnaire requesting that Nozawa report FOP data for all CONNUMs.

In the narrative of Nozawa's August 7, 2006, second supplemental questionnaire response ("SSQR"), Nozawa stated that it had "revised the FOP databases so that they contain matching CONNUMs for all sales reported in the combined U.S. sales database" SSQR at 1. However, instead of providing the FOPs that had previously been missing (*i.e.* for the CONNUMs the Department had identified in the second supplemental questionnaire), Nozawa collapsed multiple CONNUMs in the U.S. sales database, thereby matching sales of products that should fall under different CONNUMs to single CONNUMs in the FOP database. Specifically, in the U.S. sales database, Nozawa collapsed 115 unique CONNUMs into 53 CONNUMs. Therefore, the Department finds that 1) Nozawa has failed to submit certain information that has been requested; 2) Nozawa also failed to submit information in the form and manner requested; and 3) Nozawa did not, as required by section 782(c)(1) of the Act, inform the Department that it was having difficulties reporting the information in the form and manner requested, nor did it suggest an alternative method of reporting to the Department. Instead Nozawa altered the database in a manner which is inconsistent with the Department's instruction, and which misidentifies the CONNUMs for at least 62 products. Consequently, the Department cannot use the submitted information without undue difficulties. Specifically, we find that, we are unable to identify which products within the collapsed CONNUMs are matched to appropriate FOP data and we have no FOP data for at least 62 CONNUMs. Nozawa has significantly impeded this proceeding because it has prevented the Department from calculating a dumping margin based on FOP data for each product with unique physical characteristics.

Therefore, pursuant to section 782(e) of the Act, the Department is not using the information in Nozawa's SSQR, with respect to these CONNUMs, as a basis for determining Nozawa's preliminary antidumping duty margin, and pursuant to sections 776(a)(2)(A), (B), and (C) of the Act, the Department has determined to apply partial facts available for all U.S. sales for which Nozawa failed to report uniquely defined control numbers.

#### Use of Adverse Inferences

Section 776(b) of the Act provides that, upon having determined to apply

facts available pursuant to the statutory requirements of the Act, the Department may use adverse inferences in selecting among the facts otherwise available if the Department determines that the respondent failed to cooperate by not acting to the best of its ability to comply with a request for information from the Department. Section 776(b) of the Act also authorizes the Department to use as adverse facts available (AFA) information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. The U.S. Court of Appeals for the Federal Circuit has held that the "best of its ability" standard "requires the respondent to do the maximum it is able to do." See *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382 (Fed Cir. 2003) (*Nippon Steel*).

While the standard does not require perfection and recognizes that mistakes sometimes occur, it does not condone inattentiveness, carelessness, or inadequate record keeping. It assumes that importers are familiar with the rules and regulations that apply to the import activities undertaken and requires that importers, to avoid a risk of an adverse inference determination in responding to Commerce's inquiries: (a) take reasonable steps to keep and maintain full and complete records documenting the information that a reasonable importer should anticipate being called upon to produce; (b) have familiarity with all of the records it maintains in its possession, custody, or control; and (c) conduct prompt, careful, and comprehensive investigations of all relevant records that refer or relate to the imports in question to the full extent of the importers' ability to do so. *Id.*, at 1382.

The Department has determined that Nozawa did not act to the best of its ability because it neither reported uniquely defined CONNUMs, although it had the ability to do so, nor notified the Department that it would not report uniquely defined CONNUMs.<sup>3</sup> The ability to report uniquely defined CONNUMs was within Nozawa's control as evidenced by the fact that it reported the physical characteristics of each sale. In this case, CONNUMs are created by combining the quantitative values which represent 13 distinct physical characteristics. Nozawa's failure to create CONNUMs for these products, while reporting physical

<sup>3</sup> See November 10, 2005, Questionnaire, General Instructions.

characteristics for all products, demonstrates that Nozawa did not do the maximum it was able to do in responding to the Department's questionnaires. *See Nippon Steel*, 337 F.3d at 1382; *see also, Gourmet Equip. Corp. v. United States*, 24 CIT 572, 574 (2000) (holding that the respondent must provide the Department with the most accurate, credible, and verifiable information); *Tianjin Mach. Imp. & Exp. Corp. v. United States*, 806 F. Supp. 1008 (CIT 1992) (finding that ultimately the burden of creating an adequate record lies with the respondents not the Department). Furthermore, Nozawa did not report FOP data for the merchandise for which it failed to report uniquely defined CONNUMs. Again, this data was clearly within Nozawa's control.

#### **Selection of the Adverse Facts Available Rate**

In deciding which facts to use as AFA, section 776(b) of the Act and 19 CFR 351.308(c)(1) authorize the Department to rely on information derived from: (1) the petition; (2) the final determination in the investigation; (3) any previous administrative review or determination; or (4) any other information placed on the record. The Department's practice when selecting an adverse rate from among the possible sources of information is to ensure that the margin is sufficiently adverse "as to effectuate the purpose of the facts available role to induce respondents to provide the Department with complete and accurate information in a timely manner." *See Static Random Access Memory Semiconductors from Taiwan: Final Determination of Sales at Less Than Fair Value*, 63 FR 8909, 8932 (February 23, 1998). The Department's practice also ensures that "the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." *See SAA at 870*. In order to effectuate the purposes of AFA and in accordance with section 776(b), as AFA for the preliminary results, the Department is applying the highest rate determined in the less than fair value investigation to Nozawa's sales which lack uniquely defined CONNUMs.

#### **Corroboration**

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as "[i]nformation 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 Statement of Administrative Action ("SAA")* accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong., 2d Sess. Vol.1 at 870 (1994). Corroborate means that the Department will satisfy itself that the secondary information to be used has probative value. *See SAA at 870*. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information. *See SAA at 869*.

For the preliminary results, in accordance with section 776(c) of the Act, we corroborated our AFA margin using information submitted by Crown and Nozawa. *See Memorandum to the File from Laurel LaCivita and Matthew Quigley, International Trade Compliance Analysts*, through Charles Riggle, Program Manager, China/NME Group, "2004–2005 Antidumping Duty Administrative Review of Polyethylene Retail Carrier Bags from the People's Republic of China: Corroboration of Adverse Facts Available" (August 31, 2006), regarding the corroboration of the AFA rate. We found that the margin of 77.57 percent has probative value. Accordingly, we find that the rate of 77.57 percent is corroborated within the meaning of section 776(c) of the Act.

#### **Normal Value Comparisons**

To determine whether sales of PRCBs to the United States by Crown, High Den and Nozawa were made at less than NV, we compared export price ("EP") or constructed export price ("CEP") to NV, as described in the "Export Price," "Constructed Export Price" and "Normal Value" sections of this notice, pursuant to section 771(35) of the Act. For High Den, we calculated per-unit cash deposit and assessment rates rather than *ad valorem* rates. Due to the proprietary nature of this information, please see the Memorandum from Laurel LaCivita, Senior International Trade Compliance Analyst, through Charles Riggle, Program Manager, to Wendy J. Frankel, AD/CVD Operations, Office 8 "Analysis for the Preliminary Results of the 2004–2005 Administrative Review of Polyethylene Retail Carrier Bags from the People's Republic of China: High Den Enterprises, Ltd." (August 31, 2006).

#### **Constructed Export Price**

In accordance with section 772(b) of the Act, CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under sections 772 (c) and (d) of the Act. In accordance with section 772(b) of the Act, we used CEP for certain of Nozawa's sales because Nozawa sold its subject merchandise to its affiliated companies in the United States, Kal Pac Corporation ("Kal Pac") and PSI, which, in turn, made the first sales of subject merchandise to unaffiliated U.S. customers. In addition, Nozawa reported that PSI made sales of subject merchandise which it further manufactured in the United States.

In accordance with section 772(d)(1) of the Act, we made deductions from the starting price for early payment discounts, rebates, commissions, foreign inland freight from the plant to the port of exportation, international freight, marine insurance, U.S. brokerage and handling, U.S. duty, devanning, and inland freight from the warehouse to the unaffiliated U.S. customer. In accordance with section 772(d)(1) of the Act, the Department additionally deducted credit expenses, inventory carrying costs and U.S. indirect selling expenses from the U.S. price, all of which relate to commercial activity in the United States. We calculated Nozawa's credit expenses and inventory carrying costs based on the Federal Reserve short-term rate because Nozawa reported that neither Kal Pac nor PSI had short-term borrowing during the POR. We also deducted an amount for further-manufacturing costs, where applicable, in accordance with section 772(d)(2) of the Act. To calculate the cost of further manufacturing in the United States, we relied on PSI's reported cost of materials, labor, and overhead, general and administrative expenses ("G&A") and financial expenses of the further manufactured materials. In addition, we deducted CEP profit in accordance with sections 772(d)(3) and 772(f) of the Act. We also added 11 types of miscellaneous revenue to the gross unit price. *See Memorandum to the File from Matthew Quigley, International Trade Compliance Analyst*, through Charles Riggle, Program Manager, AD/CVD Operations, Office 8, "Analysis for the Preliminary Results of the 2004–2005 Administrative Review of Polyethylene



Retail Carrier Bags from the People's Republic of China: Dongguan Nozawa Plastic Products Co. Ltd. and United Power Packaging (collectively, "Nozawa")" (August 31, 2006) ("Nozawa Preliminary Analysis Memorandum").

### Export Price

Because Crown, High Den and Nozawa sold subject merchandise to unaffiliated purchasers in the United States prior to importation into the United States (or to unaffiliated resellers outside the United States with knowledge that the merchandise was destined for the United States) and use of a CEP methodology is not otherwise indicated, we have used EP for these transactions in accordance with section 772(a) of the Act.

We calculated EP based on the FOB or delivered price to unaffiliated purchasers for Crown, High Den and Nozawa. From this price, we deducted amounts for foreign inland freight, brokerage and handling, and, where applicable, ocean freight and air freight, discounts and rebates pursuant to section 772(c)(2)(A) of the Act. See Memorandum to the File from Laurel LaCivita, Senior International Trade Compliance Analyst, through Charles Riggle, Program Manager, AD/CVD Operations, Office 8, "Analysis for the Preliminary Results of the 2004–2005 Administrative Review of Polyethylene Retail Carrier Bags from the People's Republic of China: Crown Polyethylene Products (International) Ltd. ("Crown")" (August 31, 2006) ("Crown Preliminary Analysis Memorandum"); Memorandum to the File from Laurel LaCivita, Senior International Trade Compliance Analyst, through Charles Riggle, Program Manager, AD/CVD Operations, Office 8, "Analysis for the Preliminary Results of the 2004–2005 Administrative Review of Polyethylene Retail Carrier Bags from the People's Republic of China: High Den Enterprises Ltd. ("High Den")" (August 21, 2006) ("High Den Preliminary Analysis Memorandum"); and Nozawa Preliminary Analysis Memorandum.

### Surrogate Values for Expenses Incurred in the PRC for U.S. Sales

No party provided surrogate values for domestic brokerage and handling on the record of this review. Therefore, to calculate the surrogate value for domestic brokerage and handling, the Department used the information available to it contained in the public version of two questionnaire responses placed on the record of separate proceedings. The first source was December 2003–November 2004 data

contained in the public version of Essar Steel's February 28, 2005, questionnaire response submitted in the antidumping duty administrative review of hot-rolled carbon steel flat products from India. See *Certain Hot-Rolled Carbon Steel Flat Products From India: Notice of Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 2018 (January 12, 2006) (unchanged in final results); and *Certain Preserved Mushrooms from the People's Republic of China: Final Results and Final Partial Rescission of the Sixth Administrative Review*, 71 FR 40477, (July 17, 2006). This value was averaged with the February 2004–January 2005 data contained in the public version of Agro Dutch Industries Limited's ("Agro Dutch") May 24, 2005, questionnaire response submitted in the administrative review of the antidumping duty order on certain preserved mushrooms from India. See *Fresh Garlic from the People's Republic of China: Final Results and Partial Rescission of Antidumping Duty Administrative Review and Final Results of New Shipper Reviews*, 71 FR 26329 (May 4, 2006); *Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review*, 70 FR 37757 (June 30, 2005) (utilizing these same data). The brokerage expense data reported by Essar Steel and Agro Dutch in their public versions are ranged data. The Department first derived an average per-unit amount from each source. Then the Department adjusted each average rate for inflation using the Indian Wholesale Price Index ("WPI") as published on the Reserve Bank of India ("RBI") website available at [www.rbi.org.in](http://www.rbi.org.in). Finally, the Department averaged the two per-unit amounts to derive an overall average rate for the POR. See *Surrogate Value Memorandum* at 8 and Attachment XII.

To value truck freight, we used the freight rates published by Indian Freight Exchange, available at <http://www.infreight.com>. The truck freight rates are contemporaneous with the POR; therefore, we made no adjustments for inflation. Because there are no known Indian air freight providers that ship merchandise from the PRC to the United States, we valued air freight, where applicable, using the rates published in the UPS website: <http://www.ups.com>. Because the surrogate values for air freight were derived from U.S. sources, we adjusted them for inflation using the U.S. Consumer Price Index published by the U.S. Department of Labor, Bureau of Labor Statistics, available on <http://data.bls.gov>. This is

consistent with the methodology employed in *Folding Metal Tables and Chairs from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 71 FR 2905 (January 18, 2006) ("Tables and Chairs") and accompanying Issues and Decision Memorandum at Comment 6. See *Surrogate Value Memorandum* at 7–8 and Attachment XIII.

We compared individual EP and CEP transactions to NV, in accordance with section 777A(d)(2) of the Act.

### Normal Value

Section 773(c)(1) of the Act provides that, in the case of an NME, the Department shall determine NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department will base NV on FOPs because the presence of government controls on various aspects of these economies renders prices and the calculation of production costs invalid under our normal methodology. Therefore, we calculated NV based on FOPs in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c).

The FOPs for PRCBs include: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs. We used the FOPs reported by respondents for materials, energy, labor, by-products, and packing.

In accordance with 19 CFR 351.408(c)(1), when a producer sources an input from a market-economy country and pays for it in market-economy currency, the Department will normally value the factor using the actual price paid for the input. See 19 CFR 351.408(c)(1); see also, *Lasko Metal Products v. United States*, 43 F.3d 1442, 1445–1446 (Fed. Cir. 1994) (affirming the Department's use of market-based prices to value certain FOPs). Where a portion of the input is purchased from a market-economy supplier and the remainder from an NME supplier, the Department will normally use the price paid for the inputs sourced from market-economy suppliers to value all of the input, provided the volume of the market-economy inputs as a share of total purchases from all sources is "meaningful." See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27366 (May 19, 1997); *Shakeproof v. United States*, 268 F. 3d 1376, 1382 (Fed. Cir. 2001). See also 19 CFR 351.408(c)(1).

With regard to both the Indian import-based surrogate values and the market-economy input values, we have disregarded prices that we have reason to believe or suspect may be subsidized. *See Omnibus Trade and Competitiveness Act of 1988 ("OCTA")*, Conference Report to Accompany H.R. 3, H. Report No. 100-578, 590-91, 1988 U.S. Code and Adm. N. 1547, 1623 (1988) ("H.R. Rep. 100-578 (1988)"); *Tables and Chairs* at Comment 6; *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of 1999-2000 Administrative Review, Partial Rescission of Review, and Determination Not to Revoke Order in Part*, 66 FR 57420 (November 15, 2001), and accompanying Issues and Decision Memorandum at Comment 1. We have found that India, Indonesia, South Korea, and Thailand maintain broadly available, non-industry-specific export subsidies, and it is reasonable to infer that exports to all markets from these countries may be subsidized. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Notice of Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 54007, 54011 (September 13, 2005) (unchanged in final results); and *China National Machinery Import & Export Corporation v. United States*, 293 F. Supp. 2d 1334 (CIT 2003), aff'd 104 Fed. Appx. 183 (Fed. Cir. 2004).

We are also guided by the statute's legislative history that explains that it is not necessary to conduct a formal investigation to ensure that such prices are not subsidized. *See* H.R. Rep. 100-578 (1988). Rather, the Department bases its decision on information that is available to it at the time it is making its determination. *Id.* Therefore, we have not used prices from these countries either in calculating the Indian import-based surrogate values or in calculating market-economy input values. In instances where a market-economy input was obtained solely from suppliers located in these countries, we used Indian import-based surrogate values to value the input. *See* Crown Preliminary Analysis Memorandum, High Den Preliminary Analysis Memorandum and Nozawa Preliminary Analysis Memorandum.

#### Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on the FOPs reported by respondents for the POR. To calculate NV, we multiplied the reported per-unit factor quantities by publicly available Indian surrogate values (except as noted below). In

selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to render them delivered prices. Specifically, we added to Indian import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where appropriate (*i.e.*, where the sales terms for the market-economy inputs were not delivered to the factory). This adjustment is in accordance with the decision of the Federal Circuit in *Sigma Corp. v. United States*, 117 F. 3d 1401, 1408 (Fed. Cir. 1997). For a detailed description of all surrogate values used for respondents, see the Surrogate Value Memorandum.

Except as noted below, we valued raw material inputs using the weighted-average unit import values derived from the Monthly Statistics of the Foreign Trade of India, as published by the Directorate General of Commercial Intelligence and Statistics of the Ministry of Commerce and Industry, Government of India, and used in the World Trade Atlas, available at <http://www.gtis.com/wta.htm> ("WTA"). The WTA data are reported in rupees and are generally contemporaneous with the POR. *See also*, Surrogate Value Memorandum at Attachment V. Where necessary, we adjusted the surrogate values to reflect inflation/deflation using the Indian WPI as published on the RBI website, available at [www.rbi.org.in](http://www.rbi.org.in). We further adjusted these prices to account for freight costs incurred between the supplier and respondent. For a complete description of the factor values we used, see the Surrogate Value Memorandum.

Crown, High Den and Nozawa reported that a meaningful portion of their purchases of the following inputs were sourced from market-economy countries and paid for in market-economy currencies: high-density polyethylene ("HDPE") resin, low-density polyethylene ("LDPE") resin, linear low density ("LLD") resin, master batch, master batch additive, pigment, solvent, varnish, matt paste, hot stamps, black ink, color ink, and cardboard inserts. *See* Crown's DQR at D-4 and Exhibit 5; High Den's DQR at D-4 and Exhibit D4-1; and Nozawa's SQR at 37 and Exhibit D-17. Pursuant to 19 CFR 351.408(c)(1), we used the actual price paid by respondents for inputs purchased from a market-economy supplier and paid for in a market-economy currency. However, we have disregarded any market-economy prices

that we have reason to believe or suspect may be subsidized. Where applicable, we also adjusted these values to account for freight costs incurred between the supplier and respondent. *See* Surrogate Value Memorandum, Crown Preliminary Analysis Memorandum, High Den Preliminary Analysis Memorandum and Nozawa Preliminary Analysis Memorandum.

To value diesel oil, we used per-kilogram values obtained from Bharat Petroleum, an Indian petroleum company, published in December 2003, and used in *Folding Metal Tables and Chairs from the People's Republic of China: Notice of Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 39726, 39732 (July 11, 2005) (unchanged in the final). We also made adjustments to account for inflation and freight costs incurred between the supplier and respondent.

To value electricity, we used the 2000 electricity price data from International Energy Agency, *Energy Prices and Taxes - Quarterly Statistics* (First Quarter 2006), available at <http://www.eia.doe.gov/emeu/international/elecpii.html>, adjusted for inflation.

For direct labor, indirect labor and packing labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression-based wage rate as reported on Import Administration's home page. *See* Expected Wages of Selected NME Countries (revised November 2005) (available at <http://ia.ita.doc.gov/wages>). The source of these wage rate data on the Import Administration's web site is the *Yearbook of Labour Statistics 2003*, ILO, (Geneva: 2003), Chapter 5B: Wages in Manufacturing. The years of the reported wage rates range from 1998 to 2003. Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by each respondent.

For factory overhead, SG&A, and profit values, we used information from A.P. Polyplast Pvt. Ltd., Arvind Chemi Synthetics Pvt. Ltd., Jain Raffia Industries, and Kuloday Technopak Pvt. Ltd. for the year ending March 31, 2005. From this information, we were able to determine factory overhead as a percentage of the total raw materials, labor and energy ("ML&E") costs; SG&A as a percentage of ML&E plus overhead (*i.e.*, cost of manufacture); and the profit rate as a percentage of the cost of manufacture plus SG&A. *See* Surrogate Value Memorandum for a full discussion of the calculation of these ratios.



For packing materials, we used the per-kilogram values obtained from the WTA and made adjustments to account for freight costs incurred between the PRC supplier and respondent.

#### Currency Conversion

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.

#### Preliminary Results of Review

We preliminarily determine that the following weighted-average dumping margins exist:

Manufacturer/Exporter	Margin (Percent)
Crown .....	8.63
Nozawa .....	12.12

  

Manufacturer/Exporter	Margin (U.S. dollars per bag)
High Den .....	0.02

#### Disclosure

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. See 19 CFR 351.224(b). Interested parties are invited to comment on the preliminary results and may submit case briefs and/or written comments within 30 days of the date of publication of this notice. See 19 CFR 351.309(c)(ii). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 35 days after the date of publication. See 19 CFR 351.309(d). Any interested party may request a hearing within 30 days of publication of this notice. See 19 CFR 351.310(c). Any hearing, if requested, will be held 42 days after the date of publication of this notice. See 19 CFR 351.310(d). The Department requests that parties submitting written comments also provide the Department with an additional copy of those comments on diskette. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

#### Assessment Rates

The Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department will issue, as appropriate, appraisement

instructions directly to CBP within 15 days of publication of these final results of administrative review. In accordance with 19 CFR 351.212(b), we calculated exporter/importer- (or customer-) specific assessment rates for the merchandise subject to this review. For Crown and Nozawa, where the respondent has reported entered values, we calculated importer- (or customer-) specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to the importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer). Where an importer- (or customer-) specific *ad valorem* rate is greater than *de minimis*, we will apply the assessment rate to the entered value of the importer's/ customer's entries during the review period. For Crown and Nozawa, where we do not have entered values for all U.S. sales and for all of High Den's sales, we calculated a per-unit assessment rate by aggregating the antidumping duties due for all U.S. sales to each importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer). To determine whether the duty assessment rates are *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer (or customer-) specific *ad valorem* rates based on the estimated entered value. Where an importer- (or customer-) specific *ad valorem* rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.

#### 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 entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for the above-listed respondents, which have a separate rate, the cash deposit rate will be the company-specific rate established in the final results of 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 that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 77.57 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 exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

#### Notification to Importers

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

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 31, 2006.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

[FR Doc. E6-15214 Filed 9-12-06; 8:45 am]

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

[I.D. 090806A]

##### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagics off the Southern Atlantic States

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of receipt of an application for an exempted fishing permit; request for comments.

**SUMMARY:** NMFS announces the receipt of an application for an exempted fishing permit (EFP) from Dr. William Patterson and Captain Ben Hartig. If granted, the EFP would authorize the applicants, with certain conditions, to collect limited numbers of undersized and out-of-season king mackerel in South Atlantic Federal waters off the coast of Florida. The purpose of the study is to estimate temporal and spatial variability between migratory king mackerel groups in the winter mixing zone off the southeast coast of Florida.