

DEPARTMENT OF COMMERCE

International Trade Administration

(A-552-806)

Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam: Final Determination of Sales at Less Than Fair Value

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

EFFECTIVE DATE: (Insert date of publication in the Federal Register.)

SUMMARY: The Department of Commerce (the “Department”) has determined that polyethylene retail carrier bags (“PRCBs”) from the Socialist Republic of Vietnam (“Vietnam”) are being, or are likely to be, sold in the United States at less than fair value (“LTFV”), as provided in section 735 of the Tariff Act of 1930, as amended (the “Act”). The final dumping margins for this investigation are listed in the Final Determination Margins section of this notice.

FOR FURTHER INFORMATION CONTACT: Zev Primor or Shawn Higgins, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4114 and (202) 482-0679, respectively.

SUPPLEMENTARY INFORMATION:

Case History

On November 3, 2009, the Department published in the Federal Register its preliminary determination that PRCBs from Vietnam are being, or are likely to be, sold in the United States at LTFV, as provided in the Act. See Polyethylene Retail Carrier Bags From the Socialist Republic of Vietnam: Preliminary Determination of Sales at Less Than Fair Value and

Postponement of Final Determination, 74 FR 56813 (November 3, 2009) (“Preliminary Determination”). For the Preliminary Determination, the Department assigned a 76.11 percent dumping margin to the Vietnam-wide entity – including mandatory respondents Advance Polybag Co., Ltd. (“API”) and Fotai Vietnam Enterprise Corp. (“Fotai Vietnam”) – and a 52.30 percent dumping margin to 16 separate rate applicants. Because no interested party submitted case or rebuttal briefs, it was not necessary to prepare an accompanying Issues and Decision Memorandum. As a further consequence of no submissions, a hearing was not held.

As explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5, through February 12, 2010. Thus, all deadlines in this segment of the proceeding have been extended by seven days. The revised deadline for the final determination of this investigation is now March 25, 2010. See Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding “Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm,” dated February 12, 2010.

Period of Investigation

The period of investigation is July 1, 2008, through December 31, 2008. This period corresponds to the two most recent fiscal quarters prior to the month in which the petition was filed (i.e., March 2009). See 19 CFR 351.204(b)(1).

Scope of the Investigation

The merchandise subject to this investigation is polyethylene retail carrier bags, which also may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non-sealable sacks and bags with handles (including

drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm).

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

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

Changes Since the Preliminary Determination

Because no party submitted case briefs and there are no other circumstances which warrant the revision of the Preliminary Determination, the Department has not made changes to its analysis, or the dumping margins calculated, with respect to the Preliminary Determination. For further details of the issues addressed in this proceeding, see the Preliminary Determination.

Combination Rates

In the initiation notice, the Department stated that it would calculate combination rates for respondents that are eligible for a separate rate in this investigation. See Polyethylene Retail Carrier Bags From Indonesia, Taiwan, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations, 74 FR 19049 (April 27, 2009). This change in practice is described in Separate Rates and Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries, 70 FR 17233 (April 5, 2005) which states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its {non-market economy} investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of “combination rates” because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.

Final Determination Margins

The Department determines that the following dumping margins exist for the period July 1, 2008, through December 31, 2008:¹

Manufacturer	Exporter	Antidumping Duty Percent Margin
Alpha Plastics (Vietnam) Co., Ltd. ^	Alpha Plastics (Vietnam) Co., Ltd. ^	52.30
Alta Company °	Alta Company °	52.30
Ampac Packaging Vietnam Ltd. ^	Ampac Packaging Vietnam Ltd. ^	52.30
BITAHACO *	BITAHACO *	52.30
Chin Sheng Co., Ltd. *	Chin Sheng Co., Ltd. *	52.30
Chung Va (Vietnam) Plastic Packaging Co., Ltd. ^	Chung Va Century Macao Commercial Offshore Limited^	52.30
Hanoi 27-7 Packaging Company Limited, aka Hanoi 27-7 Packing Company Limited, aka HAPACK Co. Ltd, aka HAPACK °	Hanoi 27-7 Packaging Company Limited, aka Hanoi 27-7 Packing Company Limited, aka HAPACK Co. Ltd, aka HAPACK °	52.30
Hoi Hung Company Limited ^	Kong Wai Polybag Printing Company ^	52.30
Kinsplastic Vietnam Ltd. Co. ^	Kinsplastic Vietnam Ltd. Co. ^	52.30
Loc Cuong Trading Producing Company Limited, aka Loc Cuong Trading Producing Company, aka Loc Cuong Trading Producing Co. Ltd.*	Loc Cuong Trading Producing Company Limited, aka Loc Cuong Trading Producing Company, aka Loc Cuong Trading Producing Co. Ltd.*	52.30
Ontrue Plastics Co., Ltd. (Vietnam) ^	Ontrue Plastics Co., Ltd. (Vietnam) ^	52.30
Richway Plastics Vietnam Co., Ltd. ^	Richway Plastics Vietnam Co., Ltd. ^	52.30
RKW Lotus Limited Co., Ltd., aka RKW Lotus Limited, aka RKW Lotus Ltd. ^	RKW Lotus Limited Co., Ltd., aka RKW Lotus Limited, aka RKW Lotus Ltd. ^	52.30
VINAPACKINK Co., Ltd. *	VINAPACKINK Co., Ltd. *	52.30
VN K's International Polybags Joint Stock Company*	K's International Polybags MFG Ltd *	52.30
VN Plastic Industries Co. Ltd ^	VN Plastic Industries Co. Ltd ^	52.30
Vietnam-Wide Entity ²		76.11

¹ “^” designates companies as foreign-owned separate rate recipients, “*” designates companies as Vietnamese separate rate recipients, and “°” designates companies as state-owned separate rate recipients.

² API, Fotai Vietnam, Green Care Packaging Industrial (Vietnam) Co., Creative Pak Industrial Co., Ltd., An Phat Plastic and Packing Joint Stock Co., Genius Development Ltd., and J.K.C. Vina Co., Ltd. are all part of the Vietnam-wide entity.

Disclosure

The Department will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (“CBP”) to continue to suspend liquidation of all entries of PRCBs from Vietnam, as described in the Scope of the Investigation section, entered, or withdrawn from warehouse, for consumption on or after November 3, 2009, the date of publication of the Preliminary Determination in the Federal Register. The Department will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted-average dumping margin amount by which the normal value exceeds U.S. price, as follows: (1) The rate for the exporter/producer combinations listed in the chart above will be the rate the Department has determined in this final determination; (2) for all Vietnamese exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the Vietnam-wide entity rate; and (3) for all non-Vietnamese exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the rate applicable to the Vietnamese exporter/producer combination that supplied that non-Vietnamese exporter. These suspension-of-liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, the Department notified the International Trade Commission (“ITC”) of its final determination of sales at LTFV. As the Department’s final determination is affirmative, in accordance with section 735(b)(2) of the Act, within 45 days the ITC will determine whether the domestic industry in the United States is materially

injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to the parties subject to administrative protective order (“APO”) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Ronald K. Lorentzen
Deputy Assistant Secretary
for Import Administration

Date