

merchandise covered by this review and future deposits of estimated duties shall be based on the final results of this review.

#### Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. If these preliminary results are adopted in our final results of review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific (or customer) *ad valorem* duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis*.

#### Cash Deposit Requirements

The following cash deposit requirements, when imposed, 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publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For previously investigated or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; (2) 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 108.30 percent; and (3) the cash deposit rate for all non-PRC exporters (including Deseado) 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 publication of the final results of the next administrative review.

#### 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.

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

Dated: May 2, 2007

**David A. Spooner,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-557-813]

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

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

**SUMMARY:** In response to a request from an interested party, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on polyethylene retail carrier bags (PRCBs) from Malaysia. The review covers one manufacturer/exporter. The period of review is August 1, 2005, through July 31, 2006. We have preliminarily determined that sales have not been made below normal value by the company subject to this review. We invite interested parties to comment on these preliminary results. Parties who submit comments in this review are requested to submit with each argument a statement of each issue and a brief summary of the argument.

**EFFECTIVE DATE:** May 10, 2007.

**FOR FURTHER INFORMATION CONTACT:** Yang Jin Chun 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) 482-5760 and (202) 482-4477, respectively.

**SUPPLEMENTARY INFORMATION:**

#### Background

On August 9, 2004, we published in the **Federal Register** the antidumping duty order on PRCBs from Malaysia. See *Antidumping Duty Order: Polyethylene*

*Retail Carrier Bags From Malaysia*, 69 FR 48203 (August 9, 2004). On August 1, 2006, we published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on PRCBs from Malaysia. See *Antidumping or Countervailing Duty Order, Findings, or Suspended Investigation; Opportunity to Request Administrative Review*, 71 FR 43441 (August 1, 2006). Pursuant to section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), Euro Plastics Malaysia Sdn. Bhd. (Euro Plastics) requested an administrative review of the antidumping duty order on PRCBs from Malaysia on August 8, 2006. On September 29, 2006, in accordance with section 751(a) of the Act and 19 CFR 351.221(c)(1)(i), we published a notice of initiation of administrative review of this order. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 71 FR 57465 (September 29, 2006). We are conducting an administrative review of the order on PRCBs from Malaysia for Euro Plastics for the period August 1, 2005, through July 31, 2006.

#### Scope of 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 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.

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

#### Verification

As provided in section 782(i) of the Act, we have verified Euro Plastics's home-market and U.S. sales information using standard verification procedures, including on-site inspection of the manufacturer's 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 May 2, 2007, which is on file in the Central Records Unit (CRU), room B-099 of the main Department of Commerce building.

#### Duty-Absorption Determination

On October 30, 2006, the petitioners<sup>1</sup> in this proceeding requested that the Department determine whether antidumping duties have been absorbed by Euro Plastics, pursuant to 19 CFR 351.213(j). In making a duty-absorption determination, the Department will determine whether antidumping duties have been absorbed by a producer or exporter subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such producer or exporter. See section 751(a)(4) of the Act and 19 CFR 351.213(j). Euro Plastics made export-price sales only to the United States during the period of review and the company did not make any of its U.S. sales through an affiliated importer. Therefore, a duty-absorption determination is not relevant for Euro Plastics for this review and we will not make such a determination in this review.

#### Export Price

To determine whether sales of PRCBs from Malaysia to the United States were made at prices less than normal value, we compared the U.S. price to the normal value. For the price of sales by Euro Plastics to the United States, we used export price as defined in section

772(a) of the Act because the subject merchandise was first sold to an unaffiliated purchaser in the United States. We calculated Euro Plastics's export price based on the prices of the subject merchandise sold to unaffiliated customers in, or for exportation to, the United States. See section 772(c) of the Act. We made deductions for domestic movement expenses incurred in Malaysia and domestic and international movement expenses incurred for sales to the United States in accordance with section 772(c)(2)(A) of the Act.

#### Comparison-Market Sales

In order to determine whether there was a sufficient volume of sales in the comparison market to serve as a viable basis for calculating the normal value, we compared the volume of home-market sales of the foreign like product to the volume of the U.S. sales of the subject merchandise in accordance with section 773(a) of the Act. Based on this comparison of the aggregate quantities of the comparison-market (*i.e.*, Malaysia) 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 the foreign like product sold by the respondent in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a)(1) of the Act. Thus, we determined that Euro Plastics's home market was viable during the period of review. 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 for the respondent on the prices at which the foreign like product was first sold for consumption in the exporting country in the usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of trade as the comparison-market sales.

#### Cost of Production

The petitioners in this proceeding filed an allegation that Euro Plastics made sales below its cost of production (COP) in the comparison market pursuant to section 773(b) of the Act. Based on the information in the responses, we found that we had reasonable grounds to believe or suspect that Euro Plastics's sales of the foreign like product were made at prices less than the COP. See section 773(b)(2) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we conducted a COP investigation to determine whether

Euro Plastics's sales were made at prices below their COP. See the COP Investigation Memo dated January 12, 2007, for a full discussion of the decision to initiate a COP investigation.

In accordance with section 773(b)(3) of the Act, we calculated Euro Plastics's 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 provided by the respondent in its questionnaire responses.

After calculating the COP, 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. In order to determine whether the sales were made at below-cost prices, we compared model-specific COP to the reported comparison-market prices less any applicable movement charges, discounts, and rebates. See section 773(b) of the Act.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of the respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined preliminarily that the below-cost sales were not made in substantial quantities. Where 20 percent or more of the respondent's sales of a given product during the period of review were at prices less than the COP, we disregarded the below-cost sales because we determined preliminarily that they were made in substantial quantities within an extended period of time, pursuant to sections 773(b)(2)(B) and (C) of the Act. Based on comparisons of prices to weighted-average COP for the period of review, we determined preliminarily 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. See Euro Plastics Preliminary Analysis Memorandum dated May 3, 2007. Based on this test, we disregarded Euro Plastics's below-cost sales and used the remaining sales as the basis for determining normal value, in accordance with section 773(b)(1) of the Act.

Euro Plastics relied on its audited 2005 financial statement to calculate the COP because its audited 2006 financial

<sup>1</sup> The Polyethylene Retail Carrier Bag Committee and its individual members, Hilex Poly Co., LLC, and Superbag Corporation.

statement was not yet available. Because the period of review covers five months in 2005 and seven months in 2006, we requested that Euro Plastics recalculate its general and administrative expenses and net interest rates using the audited 2006 financial statement. We also requested that Euro Plastics provide cost reconciliations using the audited 2006 financial statements and supporting documents. Euro Plastics stated that its audited 2006 financial statement will be available at the end of April 2007 and, once the audited 2006 financial statement becomes available, it will resubmit its cost data. For the final results, we intend to use Euro Plastics's cost data based on its audited 2006 financial statement.

#### Model-Matching Methodology

We compared U.S. sales with sales of the foreign like product in the home market. Specifically, in making our comparisons, we used the following methodology. If an identical comparison-market model 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 the relevant or contemporary 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 the 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, (13) number of sides printed.

#### Normal Value

We based normal value for Euro Plastics on the prices of the foreign like products sold to its comparison-market customers. When applicable, we made adjustments for differences in packing and 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. In addition, we made adjustments 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 export price, we made circumstance-of-sale adjustments by deducting home-market direct selling expenses incurred on home-market sales from, and adding U.S. direct selling expenses to, normal value. In accordance with section 773(a)(1)(B)(i) of the Act, we based normal value on sales at the same level of trade as the export price. See the "Level of Trade" section below.

#### Level of Trade

Section 773(a)(1)(B)(i) of the Act provides that, to the extent practicable, the Department will calculate normal value based on sales at the same level of trade as the export price. The normal-value level of trade is that of the starting-price sales in the comparison market before any adjustments. See section 773(a)(1)(B)(i) of the Act. Euro Plastics reported identical selling functions along the chain of distribution between the producer and the unaffiliated customer in the comparison and U.S. markets. We have reviewed the selling functions Euro Plastics reported including sales forecasting, order input/processing, direct sales personnel, sales/marketing support, freight and delivery, and packing. We examined them in relation to a number of expenses Euro Plastics reported in its responses and found no discrepancies. Therefore, we determined that Euro Plastics made all comparison-market sales at one level of trade, all U.S. sales at one level of trade, and all comparison-market sales at the same level of trade as the export-price sales. See sections 773(a)(1)(B)(i) and 773(a)(7) of the Act. See Euro Plastics Preliminary Analysis Memorandum dated May 3, 2007, for more analysis.

#### Preliminary Results of the Review

As a result of our review, we preliminarily determine that the weighted-average dumping margin on polyethylene retail carrier bags from Malaysia for the period August 1, 2005, through July 31, 2006, for Euro Plastics is 0.00 percent.

#### Comments

We will disclose the calculations used in our analysis to 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: (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 and rebuttal 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) and 19 CFR 351.310(c). Any hearing, if requested, 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 will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. We intend to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of review. In accordance with 19 CFR 351.212(b)(1), we have calculated an importer-specific assessment amount of 0.00. If these preliminary results are adopted in our final results, we will direct CBP to liquidate the appropriate entries at this rate. See 19 CFR 351.212(b)(1).

The Department clarified its "automatic assessment" regulation on May 6, 2003 (68 FR 23954). This clarification will apply to entries of subject merchandise during the period of review produced by Euro Plastics 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 *Antidumping and Countervailing Duty Proceedings*:

*Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

### 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 Malaysia entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) The cash-deposit rate for Euro Plastics will be the rate established in the final results of review; (2) for previously investigated companies not listed above, the cash-deposit rate will continue to be the company-specific rate published in the *Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags From Malaysia*, 69 FR 34128, 34129 (June 18, 2004); (3) if the exporter is not a firm covered in this 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 84.94 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: May 3, 2007.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-427-819]

#### Final Results of Expedited Sunset Review: Countervailing Duty Order on Low Enriched Uranium from France

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

**SUMMARY:** On January 3, 2007, the Department of Commerce ("the Department") initiated a sunset review of the countervailing duty ("CVD") order on low enriched uranium ("LEU") from France, pursuant to section 751(c) of the Tariff Act of 1930, as amended ("the Act"). On the basis of a notice of intent to participate and an adequate substantive response filed on behalf of a domestic interested party and inadequate response from respondent interested parties (in this case, no response), the Department determined to conduct an expedited sunset review of this CVD order pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(B). As a result of this sunset review, the Department finds that revocation of the CVD order would be likely to lead to continuation or recurrence of a countervailable subsidy at the level indicated in the "Final Results of Review" section of this notice.

**EFFECTIVE DATE:** May 10, 2007.

#### FOR FURTHER INFORMATION CONTACT:

Kristen Johnson or Brandon Farlander, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-4793 or (202) 482-0182, respectively.

#### SUPPLEMENTARY INFORMATION:

#### Background

On January 3, 2007, the Department initiated a sunset review of the CVD order on LEU from France pursuant to section 751(c) of the Act. See *Initiation of Five-year ("Sunset") Reviews*, 72 FR 100 (January 3, 2007). On January 16, 2007, the Department received a notice of appearance on behalf of Eurodif S.A., a French producer of LEU, and its affiliated companies, including AREVA, an owner of Eurodif, and AREVA NC and AREVA NC, Inc., (collectively, "Eurodif/AREVA").<sup>1</sup> Eurodif/AREVA is an interested party under section 771(9)(A) of the Act. On January 18,

2007, the Department received a notice of intent to participate on behalf of USEC Inc. and its subsidiary, United States Enrichment Corporation (collectively, "USEC"), a domestic interested party. USEC, a domestic producer of LEU, is an interested party under section 771(9)(C) of the Act.

On February 2, 2007, the Department received a complete substantive response from USEC within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). However, the Department did not receive a substantive response from any government or respondent interested party to this proceeding. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited sunset review of this CVD order.

#### Scope of the Order

The product covered by this order is all LEU. LEU is enriched uranium hexafluoride (UF<sub>6</sub>) with a U<sup>235</sup> product assay of less than 20 percent that has not been converted into another chemical form, such as UO<sub>2</sub>, or fabricated into nuclear fuel assemblies, regardless of the means by which the LEU is produced (including LEU produced through the down-blending of highly enriched uranium).

Certain merchandise is outside the scope of this order. Specifically, this order does not cover enriched uranium hexafluoride with a U<sup>235</sup> assay of 20 percent or greater, also known as highly enriched uranium. In addition, fabricated LEU is not covered by the scope of this order. For purposes of this order, fabricated uranium is defined as enriched uranium dioxide (UO<sub>2</sub>), whether or not contained in nuclear fuel rods or assemblies. Natural uranium concentrates (U<sub>3</sub>O<sub>8</sub>) with a U<sup>235</sup> concentration of no greater than 0.711 percent and natural uranium concentrates converted into uranium hexafluoride with a U<sup>235</sup> concentration of no greater than 0.711 percent are not covered by the scope of this order.

Also excluded from this order is LEU owned by a foreign utility end-user and imported into the United States by or for such end-user solely for purposes of conversion by a U.S. fabricator into uranium dioxide (UO<sub>2</sub>) and/or fabrication into fuel assemblies so long as the uranium dioxide and/or fuel assemblies deemed to incorporate such imported LEU (i) remain in the possession and control of the U.S. fabricator, the foreign end-user, or their designated transporter(s) while in U.S. customs territory, and (ii) are re-exported within eighteen (18) months of entry of the LEU for consumption by the

<sup>1</sup> AREVA was previously known as Compagnie Generale des Matieres Nucleaires ("COGEMA").