

Executive Secretary, Room 2111, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230-0002. The closing period for receipt of comments is April 13, 2009. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to April 27, 2009.

A copy of the application will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at the address listed above and in the "Reading Room" section of the Board's website, which is accessible via [www.trade.gov/ftz](http://www.trade.gov/ftz). For further information, contact Pierre Duy at: [pierre\\_duy@ita.doc.gov](mailto:pierre_duy@ita.doc.gov), or (202) 482-1378.

Dated: February 4, 2009.

**Andrew McGilvray,**  
Executive Secretary.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-886]

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

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

**SUMMARY:** On September 9, 2008, the Department of Commerce published the preliminary results of the 2006/2007 administrative review of the antidumping duty order on polyethylene retail carrier bags from the People's Republic of China. The review covers two exporters. The period of review is August 1, 2006, through July 31, 2007. We invited interested parties to comment on these preliminary results.

Based on our analysis of the comments received, we have made changes to our margin calculations. Therefore, the final results differ from the preliminary results. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled "Final Results of the Review."

**EFFECTIVE DATE:** February 11, 2009.

**FOR FURTHER INFORMATION CONTACT:** Kristin Case or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of

Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3174 or (202) 482-1690, respectively.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On September 9, 2008, the Department of Commerce (the Department) published the preliminary results of review of the antidumping duty order on polyethylene retail carrier bags (PRCBs) from the People's Republic of China (PRC). See *Polyethylene Retail Carrier Bags From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review*, 73 FR 52282 (September 9, 2008) (*Preliminary Results*). The administrative review covers Dongguan Nozawa Plastics Products Co., Ltd., and United Power Packaging, Ltd. (collectively, Nozawa), Rally Plastics Co., Ltd. (Rally), and the PRC-wide entity.

We invited parties to comment on the *Preliminary Results*. On October 14, 2008, we received case briefs from the Polyethylene Retail Carrier Bag Committee and its individual members, Hilex Poly Co., LLC, and Superbag Corporation (collectively, the petitioners), and Nozawa. On October 20, 2008, we received rebuttal briefs from the petitioners and Nozawa. Because no party requested that the Department hold a hearing, we did not conduct a hearing prior to these final results of review. On December 18, 2008, we extended the deadline for completion of the final results of review. See *Notice of Extension of Time Limit for Final Results of Antidumping Duty Administrative Review: Polyethylene Retail Carrier Bags From the People's Republic of China*, 73 FR 79442 (December 29, 2008).

We have conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

##### **Scope of the Order**

The merchandise subject to the antidumping duty order is PRCBs, which may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non-sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the

bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm).

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

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>1</sup> This subheading may also cover 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 the order is dispositive.

##### **Separate Rates**

In proceedings involving non-market-economy (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 merchandise subject to review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

In the *Preliminary Results*, we treated the PRC as an NME country and found that Nozawa and Rally demonstrated their eligibility for separate-rate status. We received no comments from interested parties regarding the separate-rate status of these companies. Therefore, for these final results of review, we continue to find that the evidence placed on the record of this review by Nozawa and Rally demonstrates an absence of government control, both in law and in fact, with

<sup>1</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>.

respect to their exports of the subject merchandise. Thus, we have determined that Nozawa and Rally are eligible to receive separate rates.

In the *Preliminary Results*, we found that Samson Plastic Manufactory Co. (Samson) did not demonstrate that it was separate from the PRC-wide entity. We received no comments from interested parties regarding our determination with respect to Samson. Therefore, for these final results of review, we continue to find that Samson is not separate from the PRC-wide entity and thus does not qualify for a separate rate.

### Surrogate Country

In the *Preliminary Results*, we treated the PRC as an NME country and, therefore, we calculated normal value in accordance with section 773(c) of the Act. Also, we stated that we selected India as the appropriate surrogate country to use in this review because it is a significant producer of merchandise comparable to subject merchandise and it is at a level of economic development comparable to the PRC, pursuant to section 773(c)(4) of the Act. See *Preliminary Results*, 73 FR at 52284. No interested party commented on our designation of the PRC as an NME country nor the selection of India as the surrogate country. Therefore, we have continued to treat the PRC as an NME country and have used the same surrogate country, India, for these final results of review.

### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this review are addressed in the Issues and Decision Memorandum from John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Import Administration, dated February 4, 2009 (Decision Memo), which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded is in the Decision Memo and attached to this notice as an Appendix. The Decision Memo, which is a public document, is on file in the Central Records Unit, main Department of Commerce building, Room 1117, and is accessible on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the Decision Memo are identical in content.

### Changes Since the Preliminary Results

Based on our analysis of comments received, we have made several changes in our margin calculations. We have adjusted our surrogate financial-ratio

calculations. Specifically, we have excluded "Unloading Charges" from the surrogate financial-ratio calculations. Additionally, we have included "Chit Dividends/Losses" in the surrogate financial-ratio calculations. Moreover, we have corrected several undisputed classification and clerical errors in our surrogate financial-ratio calculations. Finally, we have revised our calculation of Nozawa's freight-revenue offset cap. See Decision Memo.

### Final Results of the Review

As a result of our review, we determine that the following final dumping margins exist for the period August 1, 2006, through July 31, 2007:

Manufacturer/Exporter	Margin (Percent)
Nozawa .....	3.19
Rally .....	25.10
PRC-wide Entity <sup>2</sup> .....	77.57

<sup>2</sup> The PRC-wide entity includes Samson.

### Assessment Rates

Upon issuance of these final results, the Department will determine, and U.S. Customs and Border Protection (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 these final results of administrative review. For customers/importers of the respondents for which we do not have entered value, we have calculated customer/importer-specific antidumping duty assessment amounts based on the ratio of the total amount of antidumping duties calculated for the examined sales of subject merchandise to the total quantity of subject merchandise sold in those transactions. For customers/importers of the respondents for which we received entered-value information, we have calculated customer/importer-specific antidumping duty assessment rates based on customer/importer-specific *ad valorem* rates in accordance with 19 CFR 351.212(b)(1). For all companies in the PRC-wide entity, we will instruct CBP to apply a dumping margin of 77.57 percent to all entries of subject merchandise produced by these companies.

### Cash-Deposit Requirements

The following cash-deposit requirements will be effective upon publication of this notice of final results of administrative review for shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of the publication as provided by section 751(a)(2)(C) of the Act: (1) the cash-

deposit rates for the reviewed companies will be the rates shown above; (2) for previously reviewed or investigated companies not listed above that have separate rates, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) for all other 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 77.57 percent; (4) for all non-PRC exporters of subject merchandise the cash-deposit rate will be the rate applicable to the PRC exporter that supplied that exporter. These deposit requirements shall remain in effect until further notice.

### Notifications

This notice serves as a final 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. See *id.*

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

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

Dated: February 4, 2009.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

### Appendix

1. Zeroing
2. Selection of Surrogate Financial Statements
3. Surrogate Financial-Ratio Calculations
4. Freight Revenue
5. Further-Manufacturing Cost Calculations
6. Inland-Freight Truck-Cost Calculation
7. Clerical Errors

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