

is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of PRCBs from Indonesia are materially injuring, or threatening material injury to, the U.S. industry (see section 735(b)(2) of the Act). Because we are postponing the deadline for our final determination to 135 days from the date of the publication of this preliminary determination, as discussed below, the ITC will make its final determination no later than 45 days after our final determination.

Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the last verification report in this proceeding. Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs. See 19 CFR 351.309(d). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. See 19 CFR 351.309(c)(2). Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette.

In accordance with section 774 of the Act, the Department will hold a public hearing, if timely requested, to afford interested parties an opportunity to comment on issues raised in case briefs, provided that such a hearing is requested by an interested party. See also 19 CFR 351.310. If a timely request for a hearing is made in this investigation, we intend to hold the hearing two days after the deadline for filing a rebuttal brief at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain the following: (1) the party's name,

address, and telephone number; (2) a list of participants; (3) a list of the issues to be discussed. See 19 CFR 351.310(c). At the hearing, oral presentations will be limited to issues raised in the briefs.

Postponement of Final Determination and Extension of Provisional Measures

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise or, in the event of a negative preliminary determination, a request for such postponement is made by the petitioner. Section 351.210(e)(2) of the Department's regulations requires that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On September 18, 2009, and September 23, 2009, SBI and SESSM requested respectively that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination by 60 days. At the same time, SBI and SESSM requested that the Department extend the application of the provisional measures prescribed under section 733(d) of the Act and 19 CFR 351.210(e)(2) from a four-month period to a six-month period. In accordance with section 735(a)(2) of the Act and 19 CFR 351.210(b)(2), because (1) our preliminary determination is affirmative, (2) the requesting exporters account for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist, we are granting this request and are postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register**. Suspension of liquidation will be extended accordingly.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: October 27, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-552-806]

Polyethylene Retail Carrier Bags From the Socialist Republic of Vietnam: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

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

DATES: *Effective Date:* November 3, 2009.

SUMMARY: The Department of Commerce (the "Department") preliminarily determines 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 733 of the Tariff Act of 1930, as amended (the "Act"). The estimated dumping margins are shown in the *Preliminary 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:

Background

On March 31, 2009, the Department received a petition concerning imports of PRCBs from Indonesia, Taiwan, and Vietnam filed in proper form by Hilex Poly Co., LLC and Superbag Corporation ("Petitioners"). See Petition from Petitioners to the Secretary of Commerce, "Petition for the Imposition of Antidumping and Countervailing Duties on Polyethylene Retail Carrier Bags from Indonesia, Taiwan, and the Socialist Republic of Vietnam" (March 31, 2009) ("Petition"). The Department initiated an antidumping duty investigation of PRCBs from Indonesia, Taiwan, and Vietnam on April 20, 2009. 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) ("Initiation Notice").

On April 21, 2009, the Department requested quantity and value ("Q&V") information from the 65 companies identified in the Petitioners' revision of a list provided in the Petition as

potential producers or exporters of PRCBs from Vietnam. See Letter from Petitioners to the Secretary of Commerce, "Revised Exhibit II-6/III-2 of the Petition" (April 16, 2009); see also Letter from Robert Bolling, Program Manager, AD/CVD Operations, Office 4, to All Interested Parties, "Antidumping Duty Investigation of Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam: Quantity and Value Questionnaire" (April 21, 2009). The Department received timely responses to its Q&V questionnaire from the following 23 companies: Advance Polybag Co., Ltd. ("API"), Fotai Vietnam Enterprise Corp. ("Fotai Vietnam"), Kinsplastic Vietnam Ltd. Co., Alpha Plastics (Vietnam) Co. Ltd., BITAHACO, Richway Plastics Vietnam Co., Ltd., Chin Sheng Co., Ltd., K's International Polybags Mfg., Ltd., Ampac Packaging Vietnam Ltd., Ontrue Plastics Co., Ltd. (Vietnam), Green Care Packaging Industrial (Vietnam) Co., Chung Va Century Macao Commercial Offshore Limited, Creative Pak Industrial Co., Ltd., An Phat Plastic and Packing Joint Stock Co., VN Plastic Industries Co., Ltd., VINAPACKINK Co., Ltd., Kong Wai Polybag Printing Company, Loc Cuong Trading Producing Company, Genius Development Ltd., Hanoi 27-7 Packing Company Limited ("HAPACK"), J.K.C. Vina Co., Ltd., Alta Company, and RKW Lotus Limited.¹ Of the 65 Q&V questionnaires the Department sent to potential exporters/manufacturers identified in the Petition, the Department received 19 timely responses and two untimely responses.² The record indicates that 55 of the 65 questionnaires sent by the Department were received by potential exporters/manufacturers.³ Therefore, 34 companies to which the Department sent the Q&V questionnaire received the questionnaire but did not respond.

On May 22, 2009, the International Trade Commission ("ITC") preliminarily determined that there is a reasonable indication that an industry in the United States is materially

¹ Because VINAPACKINK Co., Ltd., VN Plastic Industries Co., Ltd., Kong Wai Polybag Printing Company, and Genius Development Ltd. were not identified in the Petition as potential producers or exporters of PRCBs from Vietnam, the Department did not send these companies Q&V questionnaires. The Department made the Q&V questionnaire publicly available on its Web site for producers and exporters of PRCB from Vietnam that were not named in the Petition.

² Tan Hoa Loi and Nam hai Son Export Import JSC reported via mail and e-mail, respectively, that they did not ship PRCBs to the US during the period of investigation ("POI"). These responses were incomplete and not timely.

³ Federal Express and DHL were unable to deliver the Q&V questionnaire to the addresses of 10 exporters/manufacturers provided by Petitioners.

injured by reason of imports of PRCBs from Indonesia, Taiwan, and Vietnam. See *Polyethylene Retail Carrier Bags from Indonesia, Taiwan, and Vietnam; Determinations*, Investigation Nos. 701-TA-462 and 731-TA-1156-1158 (Preliminary), 74 FR 25771 (May 29, 2009).

On May 27, 2009, the Department selected API and Fotai Vietnam as mandatory respondents. See Memorandum from Zev Primor, Senior International Trade Analyst, AD/CVD Operations, Office 4, to John M. Andersen, Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Selection of Respondents in the Antidumping Investigation of Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam" (May 27, 2009) ("Respondent Selection Memorandum"). On May 28, 2009, the Department issued antidumping questionnaires to the mandatory respondents (*i.e.*, API and Fotai Vietnam). API and Fotai Vietnam submitted timely responses to section A of the Department's antidumping questionnaire on June 25, 2009. Timely responses to sections C and D of the Department's antidumping questionnaire were submitted by API and Fotai Vietnam on July 15, 2009, and July 20, 2009, respectively.

In June and July 2009, the Department received separate rate applications from API, Fotai Vietnam, Alpha Plastics (Vietnam) Co., Ltd., Alta Company, Ampac Packaging Vietnam Ltd., BITAHACO, Chin Sheng Co., Ltd., Chung Va Century Macao Commercial Offshore Limited, HAPACK, Kong Wai Polybag Printing Company, Kinsplastic Vietnam Ltd. Co., Loc Cuong Trading Producing Company, Ontrue Plastics Co., Ltd. (Vietnam), Richway Plastics Vietnam Co., Ltd., RKW Lotus Limited, VINAPACKINK Co., Ltd., K's International Polybags Mfg., Ltd., and VN Plastic Industries Co. Ltd.

The Department issued supplemental questionnaires to, and between July 2009 and September 2009, received responses from API, Fotai Vietnam, Alpha Plastics (Vietnam) Co., Ltd., Alta Company, Ampac Packaging Vietnam Ltd., BITAHACO, Chin Sheng Co., Ltd., Chung Va Century Macao Commercial Offshore Limited, HAPACK, Kong Wai Polybag Printing Company, Kinsplastic Vietnam Ltd. Co., Loc Cuong Trading Producing Company, Ontrue Plastics Co., Ltd. (Vietnam), Richway Plastics Vietnam Co., Ltd., RKW Lotus Limited, VINAPACKINK Co., Ltd., K's International Polybags Mfg., Ltd., and VN Plastic Industries Co. Ltd. From July 2009 through September 2009,

Petitioners submitted comments to the Department regarding API and Fotai Vietnam's responses to sections A, C, and D of the antidumping questionnaire.

On June 9, 2009, the Department released a letter to interested parties which listed potential surrogate countries and invited interested parties to comment on surrogate country and surrogate value ("SV") selection. See Letter from Robert Bolling, Program Manager, AD/CVD Operations, Office 4, to All Interested Parties, "Antidumping Duty Investigation of Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam" (June 9, 2009). During June 2009 and July 2009, Petitioners,⁴ API,⁵ and Fotai Vietnam⁶ submitted comments on the appropriate surrogate country and SVs. On August 26, 2009, after evaluating the interested parties' comments, the Department selected India as the surrogate country for this investigation.⁷

On August 7, 2009, Petitioners submitted allegations of targeted dumping with respect to API and Fotai Vietnam. API and Fotai Vietnam responded to Petitioners' targeted dumping allegations on September 2, 2009, and August 28, 2009, respectively.

On August 13, 2009, Petitioners made a request for a 50-day postponement of the preliminary determination. On August 21, 2009, the Department extended this preliminary

⁴ See Letter from Petitioners to the Secretary of Commerce, "Polyethylene Retail Carrier Bags From Vietnam: Petitioners' Rebuttal Surrogate Value Submission" (July 23, 2009); Letter from Petitioners to the Secretary of Commerce, "Polyethylene Retail Carrier Bags From Vietnam: Initial Surrogate Value Submission" (July 13, 2009); Letter from Petitioners to the Secretary of Commerce, "Polyethylene Retail Carrier Bags From Vietnam: Petitioners' Rebuttal Comments On Surrogate Country Selection" (July 7, 2009); Letter from Petitioners to the Secretary of Commerce, "Polyethylene Retail Carrier Bags From Vietnam: Petitioners' Comments On Surrogate Country Selection" (June 30, 2009);

⁵ See Letter from API to the Secretary of Commerce, "Antidumping Duty Investigation Involving Polyethylene Retail Carrier Bags from Vietnam" (July 29, 2009); Letter from API to the Secretary of Commerce, "Antidumping Duty Investigation Involving Polyethylene Retail Carrier Bags from Vietnam" (July 13, 2009); Letter from API to the Secretary of Commerce, "Antidumping Duty Investigation Involving Polyethylene Retail Carrier Bags from Vietnam—Surrogate Country Comments" (June 30, 2009).

⁶ See Letter from Fotai Vietnam to the Secretary of Commerce, "Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam" (July 13, 2009); Letter from Fotai Vietnam to the Secretary of Commerce, "Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam" (June 30, 2009).

⁷ See Memorandum from Shawn Higgins, International Trade Compliance Analyst, AD/CVD Operations, Office 4, to Abdelali Elouaradia, Office Director, AD/CVD Operations, Office 4, "Antidumping Duty Investigation of Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam: Selection of a Surrogate Country" (August 26, 2009).

determination by fifty days. *See Postponement of Preliminary Determination of Antidumping Duty Investigations: Polyethylene Retail Carrier Bags from Indonesia, Taiwan, and the Socialist Republic of Vietnam*, 74 FR 42229 (August 21, 2009).

On September 23, 2009, Fotai Vietnam notified the Department that it would no longer participate in this investigation. *See Letter from Fotai Vietnam to the Secretary of Commerce, "Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam"* (September 23, 2009) ("Fotai Vietnam Withdrawal Letter"). Similarly, on October 21, 2009, API notified the Department that it would no longer participate in this investigation. *See Letter from API to the Secretary of Commerce, "Antidumping Duty Investigation Involving Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam"* (October 21, 2009) ("API Withdrawal Letter").

On October 19, 2009, Petitioners requested that the Department revise the estimated dumping margins stated in the Petition and calculated for purposes of initiation.⁸ However, because Petitioners' October 19, 2009, submission was received by the Department just eight days prior to the signature date of the preliminary determination, the Department did not have sufficient time to analyze its substance. Therefore, the Department will evaluate these comments in the final determination.

Period of Investigation

The POI is July 1, 2008, through December 31, 2008. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the Petition, (*i.e.*, March 2009). *See* 19 CFR 351.204(b)(1).

Postponement of Final Determination

Pursuant to section 735(a)(2) of the Act, on September 22, 2009, API requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination.⁹ On September 28, 2009, API agreed that the Department may extend the application of the provisional measures prescribed under 19 CFR 351.210(e)(2) from a 4-

⁸ *See Letter from Petitioners to the Secretary of Commerce, "Polyethylene Retail Carrier Bags From Vietnam: Petitioners' Comments Concerning Updates To And Further Corroboration Of The Estimated Margin Calculations Used By The Department For Initiation Of This Investigation"* (October 19, 2009).

⁹ On September 17, 2009, Petitioners requested that, in the event of a negative preliminary determination in this investigation, the Department postpone its final determination.

month period to a 6-month period. In accordance with section 733(d) of the Act and 19 CFR 351.210(b), the Department is granting the request and is postponing the final determination until no later than 135 days after the publication of this notice in the **Federal Register** because: (1) This preliminary determination is affirmative, (2) the requesting exporter accounts for a significant proportion of exports of the subject merchandise, and (3) no compelling reasons for denial exist. Suspension of liquidation will be extended accordingly.

Scope of the Investigation

The merchandise subject to these investigations 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 these investigations 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 these investigations 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 these investigations. Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.

Scope Comments

As explained in the preamble to the Department's regulations, the Department sets aside a period of time in its *Initiation Notice* for parties to raise issues regarding product coverage, and encourages all parties to submit comments within 20 calendar days of publication of that notice. *See Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27323 (May 19, 1997) and *Initiation Notice*. The Department received no comments regarding the scope of this investigation.

Non-Market Economy Treatment

The Department considers Vietnam to be a non-market economy ("NME") country. In accordance with section 771(18)(C)(i) of the Act, any determination that a country is an NME country shall remain in effect until revoked by the administering authority. *See Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Notice of Preliminary Results of the New Shipper Review and Fourth Antidumping Duty Administrative Review and Partial Rescission of the Fourth Administrative Review*, 73 FR 52015 (September 8, 2008), unchanged in *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Final Results of the Antidumping Duty Administrative Review and New Shipper Reviews*, 74 FR 11349 (March 17, 2009). The Department has not revoked Vietnam's status as an NME country. Therefore, in this preliminary determination, the Department has continued to treat Vietnam as an NME country and applied its current NME methodology.

Separate Rates

In the *Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate rate status in NME investigations. *See Initiation Notice*, 74 FR at 19054-55. The process requires exporters and producers to submit a separate rate status application.¹⁰ However, the

¹⁰ *See Policy Bulletin 05.1: Separate-Rate Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries*, (April 5, 2005), at 6, available at <http://ia.ita.doc.gov/policy/bull05-1.pdf>. ("Policy Bulletin 05.1"). Policy Bulletin 05.1 states, in relevant part, "While continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME 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 applied both to mandatory respondents receiving an individually calculated separate rate as well as the

Continued

standard for separate rate eligibility has not changed.

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of subject merchandise 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. Exporters can demonstrate this independence through the absence of both *de jure* and *de facto* governmental control over export activities. The Department analyzes each entity exporting the subject merchandise under a test arising from the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) ("*Sparklers*"), as further developed in *Notice of 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*"). However, if the Department determines that a company is wholly foreign-owned or located in a market economy ("ME"), then a separate rate analysis is not necessary to determine whether it is independent from government control.

Separate Rate Recipients

1. Wholly Foreign-Owned

Nine separate rate applicants in this investigation ("Foreign-Owned SR Applicants"), provided evidence that they are wholly owned by individuals or companies located in MEs in their separate rate applications. Therefore, because they are wholly foreign-owned and the Department has no evidence indicating that they are under the control of the government of Vietnam, a separate rates analysis is not necessary to determine whether these companies are independent from government control. See *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) (determining that the respondent was wholly foreign-owned, and thus, qualified for a

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."

separate rate). Accordingly, the Department has preliminarily granted a separate rate to these Foreign-Owned SR Applicants. See *Preliminary Determination Margins* section below for companies marked with a "∧" designating these companies as foreign-owned SR recipients.

2. Joint Ventures Between Vietnamese and Foreign Companies or Wholly Vietnamese-Owned Companies

Five of the separate rate applicants in this investigation are either joint ventures between Vietnamese and foreign companies or are wholly Vietnamese-owned companies (collectively, "Vietnamese SR Applicants"). The Department has analyzed whether each Vietnamese SR Applicant has demonstrated the absence of *de jure* and *de facto* governmental control over its respective export activities.

a. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export license; (2) legislative enactments decentralizing control of companies; and (3) other formal measures by the government decentralizing control of companies. See *Sparklers*, 56 FR at 20589.

The evidence provided by the five Vietnamese SR Applicants supports a preliminary finding of *de jure* absence of governmental control based on the following: (1) An absence of restrictive stipulations associated with the individual exporters' business and export licenses; (2) the existence of applicable legislative enactments decentralizing control of Vietnamese companies; and (3) the implementation of formal measures by the government decentralizing control of Vietnamese companies.

b. Absence of De Facto Control

Typically, the Department considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes

independent decisions regarding disposition of profits or financing of losses. See *Silicon Carbide*, 59 FR at 22586-87; see also *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995). The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

The evidence provided by the five Vietnamese SR Applicants supports a preliminary finding of *de facto* absence of governmental control based on record statements and supporting documentation showing that the companies: (1) Set their own export prices independent of the government and without the approval of a government authority; (2) have the authority to negotiate and sign contracts and other agreements; (3) maintain autonomy from the government in making decisions regarding the selection of management; and (4) retain the proceeds of their respective export sales and make independent decisions regarding disposition of profits or financing of losses.

In all, the evidence placed on the record of this investigation by the five Vietnamese SR Applicants demonstrates an absence of *de jure* and *de facto* government control in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. Accordingly, the Department has preliminarily granted a separate rate to the Vietnamese SR Applicants. See *Preliminary Determination Margins* section below for companies marked with an "*" designating these companies as Vietnamese SR recipients.

3. Wholly State-Owned Exporters/Manufacturers and Exporters/Manufacturers Whose Stock Is Partially Owned by a Government State Asset Management Company

Two of the separate rate applicants in this investigation are either wholly state-owned or are exporters/manufacturers whose stock is partially owned by a government state asset management company (collectively, State-Owned SR Applicants). According to HAPACK's Separate Rate Application, HAPACK is a state-owned enterprise, owned by the Hanoi People's Committee. See HAPACK's July 2, 2009, Separate Rate Application at 10. According to Alta Company's Separate Rate Application, Alta Company is partially owned by a state-owned

enterprise. See Alta Company's July 2, 2009, Separate Rate Application at 11. Absent evidence of *de facto* control over export activities, however, government ownership alone does not warrant denying a company a separate rate. See *Lightweight Thermal Paper From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 57329 (October 2, 2008) and the accompanying Issues and Decisions Memorandum at Comment 7.

The Department preliminarily determines that the evidence placed on the record of this investigation by HAPACK and Alta Company demonstrates an absence of *de facto* government control of exports of the merchandise under investigation, in accordance with the criteria identified in *Sparklers and Silicon Carbide*. HAPACK and Alta Company both certified that their export prices are not set by, subject to the approval of, or in any way controlled by a government entity at any level and that they have independent authority to negotiate and sign export contracts, by providing price negotiation documents for their first U.S. sale. See, e.g., HAPACK's July 2, 2009, Separate Rate Application and September 28, 2009, Separate Rate Application Supplemental Questionnaire Response; see also Alta Company's July 2, 2009, Separate Rate Application. HAPACK and Alta Company also stated that they have the right to select their own management and to decide how profits will be distributed. See HAPACK's July 2, 2009, Separate Rate Application and September 28, 2009, Separate Rate Application Supplemental Questionnaire Response; see also Alta Company's July 2, 2009, Separate Rate Application. Thus, the Department preliminarily determines that there is an absence of both *de jure* and *de facto* government control with respect to both HAPACK and Alta Company. Accordingly, the Department has preliminarily granted a separate rate to the State-Owned SR Applicants. See *Preliminary Determination Margins* section below for companies marked with an "o" designating these companies as state-owned SR recipients.

Companies Not Receiving a Separate Rate

In the *Initiation Notice*, the Department requested that all companies wishing to qualify for separate rate status in this investigation submit a separate rate status application. See *Initiation Notice*. The following five exporters submitted a timely response to the Department's Q&V questionnaire but did not provide

a separate rate application: (1) Green Care Packaging Industrial (Vietnam) Co.; (2) Creative Pak Industrial Co., Ltd.; (3) An Phat Plastic and Packing Joint Stock Co.; (4) Genius Development Ltd.; and (5) J.K.C. Vina Co., Ltd., and therefore have not demonstrated their eligibility for separate rate status in this investigation. As a result, the Department is treating these Vietnamese exporters as part of the Vietnam-wide entity.

Margins for Separate Rate Recipients

Normally the separate rate is determined based on the estimated weighted-average dumping margins established for exporters and producers individually investigated, excluding *de minimis* margins or margins based entirely on adverse facts available ("AFA"). See section 735(c)(5)(A) of the Act. If, however, the estimated weighted-average margins for all individually investigated respondents are *de minimis* or based entirely on AFA, the Department may use any reasonable method. See section 735(c)(5)(B) of the Act. In this proceeding, because the rate for all individually investigated respondents is based on AFA, we have relied on information from the Petition to determine a rate to be applied to the respondents that have demonstrated entitlement to a separate rate. See, e.g., *Uncovered Innerspring Units From the People's Republic of China: Final Determination of Sales at Less Than Fair Value*, 73 FR 79443, 79445 (December 29, 2008). Specifically, we have assigned a simple average of the margins contained in the Petition, as adjusted by the Department for purposes of initiation, i.e., 52.30 percent, as the separate rate for the preliminary determination. *Id.*; see also *Preliminary Determination of Sales at Less Than Fair Value: Raw Flexible Magnets from the People's Republic of China*, 73 FR 22327, 22329–30 (April 25, 2008), unchanged in *Final Determination of Sales at Less Than Fair Value: Raw Flexible Magnets from the People's Republic of China*, 73 FR 39669, 39671 (July 10, 2008). Entities receiving this rate are identified by name in the *Preliminary Determination Margins* section of this notice.

Use of Facts Available and Adverse Facts Available

Section 776(a) of the Act provides that the Department shall apply "facts otherwise available" if (1) necessary information is not on the record, or (2) 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 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Such an adverse inference may include reliance on information derived from the Petition, the final determination, a previous administrative review, or other information placed on the record.

Vietnam-Wide Entity

1. Non-Responsive Companies

On April 21, 2009, the Department requested Q&V information from the 65 companies identified in the Petitioners' revision of a list provided in the Petition as potential producers or exporters of PRCBs from Vietnam. Additionally, the Department's *Initiation Notice* informed these companies of the requirements to respond to both the Department's Q&V questionnaire and the separate rate application in order to receive consideration for separate rate status. However, not all exporters/manufacturers responded to the Department's request for Q&V information.¹¹ Furthermore, not all exporters/manufacturers that submitted Q&V information also submitted a separate rate application.¹² Therefore, the Department preliminarily determines that there were exports of merchandise under review from Vietnam exporters/manufacturers that did not respond to the Department's Q&V questionnaire, and/or subsequently did not demonstrate their eligibility for separate rate status. As a result, the Department is treating these Vietnamese exporters/manufacturers ("non-responsive companies") as part of the Vietnam-wide entity.

2. Fotai Vietnam and API

As stated above, both Fotai Vietnam and API informed the Department, on

¹¹ As stated in the *Background* section above, of the 65 Q&V questionnaires the Department sent to potential exporters identified in the Petition, the Department received 19 timely responses. The record indicates that 55 of the 65 questionnaires sent by the Department were received. See Respondent Selection Memorandum and *Background* section above.

¹² As stated in the *Separate Rates* section above, five exporters submitted a timely response to the Department's Q&V questionnaire but did not provide a separate rate application.

September 23, 2009, and October 21, 2009, respectively, that they would no longer participate in the instant investigation. Further, Fotai Vietnam and API requested that the Department: (1) Remove all business proprietary information (“BPI”) submitted to the record of this investigation and (2) instruct all parties on the administrative protective order (“APO”) service list to certify the destruction of any materials served by Fotai Vietnam or API under the APO. See Fotai Vietnam Withdrawal Letter and API Withdrawal Letter. Additionally, API also requested that the Department remove its public information from the record. See API Withdrawal Letter. The Department, however, following its practice, retained public copies of submissions provided on behalf of API and Fotai Vietnam as part of the public record in this proceeding.¹³ Because both Fotai Vietnam and API have removed all of their BPI submitted to the record of this investigation, including their separate rate applications, Fotai Vietnam and API have failed to demonstrate that they operate free of government control and that they are entitled to a separate rate. Therefore, the Department preliminarily finds that Fotai Vietnam and API are part of the Vietnam-wide entity.

Application of Total Adverse Facts Available

As noted above, the Department has determined that Fotai Vietnam, API, and the non-responsive companies are part of the Vietnam-wide entity. Pursuant to section 776(a) of the Act, the Department further finds that the Vietnam-wide entity failed to respond to the Department’s questionnaires, withheld required information, and/or submitted information that cannot be verified, thus significantly impeding the proceeding. See *Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen Fish Fillets From the Socialist Republic of Vietnam*, 68 FR 4986, 4991 (January 31, 2003), unchanged in *Notice of Final Antidumping Duty Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances:*

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam, 68 FR 37116 (June 23, 2003). Accordingly, the Department has preliminarily determined to base the Vietnam-wide entity’s margin on facts otherwise available. See section 776(a) of the Act. Further, because the Vietnam-wide entity failed to cooperate by not acting to the best of its ability to comply with the Department’s request for information, the Department preliminarily determines that, when selecting from among the facts otherwise available, an adverse inference is warranted for the Vietnam-wide entity pursuant to section 776(b) of the Act.

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) provide that the Department may rely on information derived from (1) the Petition, (2) a final determination in the investigation, (3) any previous review or determination, or (4) any information placed on the record. In selecting a rate for AFA, the Department selects a rate that is sufficiently adverse “as to effectuate the purpose of the facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.” See *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909, 8932 (February 23, 1998). Further, it is the Department’s practice to select a rate that ensures “that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.” See *Brake Rotors From the People’s Republic of China: Final Results and Partial Rescission of the Seventh Administrative Review; Final Results of the Eleventh New Shipper Review*, 70 FR 69937, 69939 (November 18, 2005).

It is the Department’s practice to select, as AFA, the higher of the (a) highest margin alleged in the Petition, or (b) the highest calculated rate of any respondent in the investigation. See *Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Quality Steel Products from the People’s Republic of China*, 65 FR 34660 (May 31, 2000) and accompanying Issues and Decision Memorandum, at “Facts Available.” Therefore, as AFA, the Department has preliminarily assigned to the Vietnam-wide entity the highest dumping margin alleged in the Petition, as adjusted by the Department for initiation, which is 76.11 percent.

The dumping margin for the Vietnam-wide entity applies to all entries of the merchandise under investigation except for entries of subject merchandise from the exporter/manufacturer combinations listed in the chart in the *Preliminary Determination Margins* section below.

Corroboration of Secondary Information

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*, accompanying the Uruguay Round Agreements Act (“SAA”), H.R. Doc. No. 103–316, Vol. 1 (1994) at 870. Corroboration means that the Department will satisfy itself that the secondary information to be used has probative value. *Id.* To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. See *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996) (unchanged in the final determination) *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997). Independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: High and Ultra-High Voltage Ceramic Station Post Insulators from Japan*, 68 FR 35627 (June 16, 2003) (unchanged in final determination) *Notice of Final Determination of Sales at Less Than Fair Value: High and Ultra*

¹³ See Letter from Robert Bolling, Program Manager, AD/CVD Operations, Office 4, to API, “Antidumping Duty Investigation of Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam: Removal of Advance Polybag Company’s Business Proprietary Information from the Record” (October 27, 2009). See also, e.g., Letter from Richard Weible, Office Director, AD/CVD Operations, Office 7, to G J Steel, “Administrative Review of Certain Hot-Rolled Carbon Steel Flat Products from Thailand” (April, 8, 2009).

High Voltage Ceramic Station Post Insulators from Japan, 68 FR 62560 (November 5, 2003); *Notice of Final Determination of Sales at Less Than Fair Value: Live Swine From Canada*, 70 FR 12181, 12183–84 (March 11, 2005); SAA at 870.

Because there are no mandatory respondents, to corroborate the 28.49 and 76.11 percent dumping margins, which were calculated for purposes of initiation and used to assign dumping margins to the companies receiving a separate rate and to the Vietnam-wide entity, we revisited our pre-initiation analysis of the adequacy and accuracy of the information in the Petition. See “Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam: AD Investigation Initiation Checklist” (April 20, 2009). We examined evidence supporting the calculations in the Petition and the supplemental information provided by Petitioners prior to initiation to determine the probative value of the margins alleged in the Petition. During our pre-initiation analysis, we examined the information used as the basis of export price (“EP”)

and normal value (“NV”) in the Petition, and the calculations used to derive the alleged margins. Also during our pre-initiation analysis, we examined information from various independent sources provided either in the Petition or, based on our requests, in supplements to the Petition, which corroborated key elements of the EP and NV calculations. *Id.* We received no comments as to the relevance or probative value of this information. Accordingly, the Department finds that the rates derived from the Petition and used for purposes of initiation have probative value for the purpose of being assigned to the companies receiving a separate rate and to the Vietnam-wide entity.

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 *Initiation Notice*. This change in practice is described in *Policy Bulletin 05.1*, 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 NME 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.

Preliminary Determination Margins

The Department preliminarily determines that the following dumping margins exist for the period July 1, 2008, through December 31, 2008:¹⁴

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 Packaging Company Limited, aka HAPACK Co. Ltd, aka HAPACK °	Hanoi 27–7 Packaging Company Limited, aka Hanoi 27–7 Packaging 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 ¹⁵		76.11

Suspension of Liquidation

In accordance with section 733(d) of the Act, the Department will instruct U.S. Customs and Border Protection (“CBP”) to suspend liquidation of all entries of PRCBs from Vietnam as described in the “Scope of Investigation” section, entered, or

withdrawn from warehouse, for consumption on or after the date of publication of this notice 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 amount by which NV exceeds U.S. price, as follows: (1) The rate for

the exporter/manufacturer combinations listed in the chart above will be the rate which has been determined in this preliminary 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 rate; and (3) for all

¹⁴ As stated above, “^” designates companies as foreign-owned SR recipients, “*” designates companies as Vietnamese SR recipients, and “°” designates companies as state-owned SR recipients.

¹⁵ 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.

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/manufacturer 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 733(f) of the Act, the Department has notified the ITC of its preliminary affirmative determination of sales at LTFV. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of PRCBs, or sales (or the likelihood of sales) for importation, of the subject merchandise within 45 days of the final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than two weeks after the date of publication of this preliminary determination, and rebuttal briefs, limited to issues raised in case briefs, no later than five days after the deadline for submitting case briefs. See 19 CFR 351.309(c)(1)(i) and 19 CFR 351.309(d)(1). A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes.

In accordance with section 774 of the Act, the Department will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. If a request for a hearing is made, the Department intends to hold the hearing three days after the deadline of submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Interested parties that wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days after the date of publication of this notice. See 19 CFR 351.310(c). Requests should contain the party's name, address, and telephone number, the

number of participants, and a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief and may make rebuttal presentations only on arguments included in that party's rebuttal brief.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: October 27, 2009.

John M. Andersen,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. E9-26428 Filed 11-2-09; 8:45 am]

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DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket Number 090429803-91272-02]

Procedures for Participating in the 2010 Decennial Census New Construction Program

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice.

SUMMARY: The Bureau of the Census (Census Bureau) publishes this notice to announce the final procedures for the New Construction Program, which allows tribal and local governments to submit lists of addresses for newly constructed housing units to the Census Bureau. The purpose of this program is to ensure that the Census Bureau's address list is as complete and accurate as possible for the conduct of the decennial census on April 1, 2010. This notice also summarizes the comments received on the July 1, 2009, **Federal Register** notice (74 FR 31405) requesting comments on the proposed 2010 Census New Construction Program and the response of the Census Bureau.

Electronic availability: This notice is available on the Internet from the Census Bureau's Web site at <http://www.census.gov/>.

DATES: These New Construction procedures, which reflect revisions based on public comment following publication of draft procedures, will be implemented on November 3, 2009.

ADDRESSES: Correspondence concerning the 2010 Census New Construction Program in general should be submitted to Arnold A. Jackson, Associate Director for Decennial Census, U.S. Census Bureau, through one of the following methods:

FAX: Correspondence may be faxed to (301) 763-8867.

E-mail: Correspondence may be e-mailed to

Arnold.A.Jackson@census.gov.

FOR FURTHER INFORMATION CONTACT: For further information about the Census Bureau's 2010 Census New Construction Program, contact Timothy F. Trainor, Chief, Geography Division, U.S. Census Bureau, through one of the following methods:

FAX: Correspondence may be faxed to (301) 763-4710.

E-mail: Correspondence may be e-mailed to

Timothy.F.Trainor@census.gov.

SUPPLEMENTARY INFORMATION: As part of its objective to produce a complete and accurate population count, the Census Bureau will implement the 2010 Decennial Census New Construction Program to capture the addresses of newly constructed housing units. Specifically, the purpose of this program is to utilize tribal and local knowledge of recent and in-progress construction to identify, and add to the census address list, the addresses for housing units not yet existent at the time of the Address Canvassing Operation. Address Canvassing was a nationwide check of addresses that was completed during the spring/summer of 2009 in which the Census Bureau verified the census address list that will be used to deliver questionnaires for the 2010 Decennial Census. During address canvassing, census workers systematically canvassed all census blocks looking for living quarters and added, deleted, and corrected entries on the census address list to ensure its completeness and accuracy. In order to account for any housing units of which the construction began after the start of the Address Canvassing Operation, the Census Bureau will implement the New Construction Program.

The 2010 Decennial Census New Construction Program is conducted by the Census Bureau under the authority of Title 13, United States Code, Section 141(a), and is separate and distinct from the Local Update of Census Addresses Program (see 73 FR 12369) in that its only purpose is to identify addresses for housing units newly constructed (starting in March 2009) that are expected to be closed to the elements (final roof, windows, and doors) by Census Day, April 1, 2010. The New Construction Program was conducted for the first time as part of Census 2000.

Summary of Comments Received in Response to the Proposed New Construction Program

On July 1, 2009, the Census Bureau issued a **Federal Register** notice (74 FR