

Dated: March 25, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

## Appendix

*List of Issues in the Issues and Decision Memorandum*

1. Targeted Dumping.
2. Level of Trade.
3. Adverse Facts Available.
4. Home-Market Credit Expenses.
5. General and Administrative Expenses.

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-552-806]

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

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

**DATES:** *Effective Date:* April 1, 2010.

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

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

#### **SUPPLEMENTARY INFORMATION:**

##### **Case History**

On November 3, 2009, the Department published in the **Federal Register** its preliminary determination that PRCBs from Vietnam are being, or are likely to be, sold in the United States at LTFV, as provided in the Act. *See Polyethylene Retail Carrier Bags From the Socialist Republic of Vietnam: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 74 FR 56813 (November 3, 2009) ("*Preliminary Determination*").

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

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

##### **Period of Investigation**

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

##### **Scope of the Investigation**

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

PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, *e.g.*, grocery, drug, convenience, department, specialty retail, discount stores, and restaurants to their customers to

package and carry their purchased products. The scope of this investigation excludes (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end-uses other than packaging and carrying merchandise from retail establishments, *e.g.*, garbage bags, lawn bags, trash-can liners.

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

##### **Changes Since the Preliminary Determination**

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

##### **Combination Rates**

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

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its {non-market economy} investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms

receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates" because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to

an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.

**Final Determination Margins**

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

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

**Disclosure**

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

**Continuation of Suspension of Liquidation**

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

received their own rate, the cash-deposit rate will be the Vietnam-wide entity rate; and (3) for all non-Vietnamese exporters of subject merchandise which have not received their own rate, the cash-deposit rate will be the rate applicable to the Vietnamese exporter/producer combination that supplied that non-Vietnamese exporter. These suspension-of-liquidation instructions will remain in effect until further notice.

**International Trade Commission Notification**

In accordance with section 735(d) of the Act, the Department notified the International Trade Commission ("ITC") of its final determination of sales at LTFV. As the Department's final determination is affirmative, in accordance with section 735(b)(2) of the Act, within 45 days the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will

be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

**Notification Regarding APO**

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

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

<sup>1</sup> "∧" designates companies as foreign-owned separate rate recipients, "°" designates companies as Vietnamese separate rate recipients, and "°" designates companies as state-owned separate rate recipients.

designates companies as state-owned separate rate recipients.

<sup>2</sup> 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.

Dated: March 25, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-533-840]

#### Certain Frozen Warmwater Shrimp From India: Initiation of Antidumping Duty Changed Circumstances Review

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

**DATES:** *Effective Date:* April 1, 2010.

**SUMMARY:** The Department of Commerce (the Department) has received information sufficient to warrant the initiation of a changed circumstances review of the antidumping duty order on certain frozen warmwater shrimp from India. Specifically, based on a request filed by Srikanth International, the Department is initiating a changed circumstances review to determine whether Srikanth International is the successor-in-interest to NGR Aqua International (NGR).

**FOR FURTHER INFORMATION CONTACT:** Blaine Wiltse; AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-6345.

#### SUPPLEMENTARY INFORMATION:

##### Background

On February 1, 2005, the Department published in the **Federal Register** an antidumping duty order on certain frozen warmwater shrimp from India. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from India*, 70 FR 5147 (Feb. 1, 2005) (*Shrimp Order*).

On February 3, 2010, Srikanth International informed the Department that it purchased the packing plant formerly owned and operated by NGR, and provided certain documentation related to this claim. Additionally, Srikanth International requested that the Department conduct an expedited changed circumstances review under 19 CFR 351.221(c)(3)(iii) to confirm that Srikanth International is the successor-in-interest to NGR for purposes of determining antidumping duty cash deposits and liabilities.

Normally, the Department will initiate a changed circumstances review within 45 days of the date on which the request is filed. *See* 19 CFR 351.216(b). However, as explained in the memorandum from the Deputy Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from February 5 through February 12, 2010. Thus, all deadlines in this segment of the proceeding have been extended by seven days. The revised deadline for initiating this review is now March 29, 2010. *See* Memorandum to the Record from Ronald Lorentzen, DAS for Import Administration, regarding "Tolling of Administrative Deadlines As a Result of the Government Closure During the Recent Snowstorm," dated February 12, 2010.

##### Scope of the Order

The scope of this order includes certain frozen warmwater shrimp and prawns, whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,<sup>1</sup> deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

The frozen warmwater shrimp and prawn products included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns.

Warmwater shrimp and prawns are generally classified in, but are not limited to, the *Penaeidae* family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannamei*), banana prawn (*Penaeus merguensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

<sup>1</sup> "Tails" in this context means the tail fan, which includes the telson and the uropods.

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of this order. In addition, food preparations, which are not "prepared meals," that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of this order.

Excluded from the scope are: (1) Breaded shrimp and prawns (HTSUS subheading 1605.20.10.20); (2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; (3) fresh shrimp and prawns whether shell-on or peeled (HTSUS subheadings 0306.23.00.20 and 0306.23.00.40); (4) shrimp and prawns in prepared meals (HTSUS subheading 1605.20.05.10); (5) dried shrimp and prawns; (6) canned warmwater shrimp and prawns (HTSUS subheading 1605.20.10.40); (7) certain dusted shrimp; and (8) certain battered shrimp. Dusted shrimp is a shrimp-based product: (1) That is produced from fresh (or thawed-from-frozen) and peeled shrimp; (2) to which a "dusting" layer of rice or wheat flour of at least 95 percent purity has been applied; (3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; (4) with the non-shrimp content of the end product constituting between four and ten percent of the product's total weight after being dusted, but prior to being frozen; and (5) that is subjected to IQF freezing immediately after application of the dusting layer. Battered shrimp is a shrimp-based product that, when dusted in accordance with the definition of dusting above, is coated with a wet viscous layer containing egg and/or milk, and par-fried.

The products covered by this order are currently classified under the following HTSUS subheadings: 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10, and 1605.20.10.30. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of this order is dispositive.

##### Initiation of Changed Circumstances Review

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), the Department will conduct a changed circumstances review upon receipt of information concerning, or a request from an interested party for a review of, an antidumping duty order which