

*See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186, 69187 (November 15, 2002).

### Currency Conversion

For purposes of these preliminary results, we made currency conversions in accordance with section 773A(a) of the Act, based on the official exchange rates published by the Federal Reserve Bank.

### Preliminary Results of the Review

As a result of this review, we preliminarily find that the following weighted-average dumping margins exist:

Producer/Manufacturer	Weighted-Average Margin
Dongbu .....	4.96 %
HYSKO .....	0.51 %
Union .....	4.35 %

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties of this proceeding in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.309(c)(ii). Rebuttal briefs are limited to issues raised in such briefs or comments and may be filed no later than five days after the time limit for filing the case briefs or comments. *See* 19 CFR 351.309(d). Parties submitting arguments in this proceeding are requested to submit with the argument: 1) a statement of the issue, 2) a brief summary of the argument, and 3) a table of authorities. Case and rebuttal briefs and comments must be served on interested parties in accordance with 19 CFR 351.303(f). Further, parties submitting written comments are requested to provide the Department with an additional copy of the public version of any such comments on a diskette.

An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, ordinarily will be held two days after the due date of the rebuttal briefs. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, or at a hearing, if requested, within 120 days of publication of these preliminary results.

### Assessment Rate

Upon completion of this administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this review. The Department clarified its "automatic assessment" regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*). This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (e.g., a reseller, trading company, or exporter) 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 intermediary involved in the transaction. *See Assessment Policy Notice* for a full discussion of this clarification.

### Cash Deposit Requirements

To calculate the cash deposit rate for each producer and/or exporter included in this administrative review, we divided the total dumping margins for each company by the total net value for that company's sales during the review period.

The following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of CORE for Korea entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the companies listed above will be the rates established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, *de minimis*, the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent final results in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in these reviews, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent final results for the manufacturer of the merchandise; and (4) if neither

the exporter nor the manufacturer is a firm covered in these or any previous review conducted by the Department, the cash deposit rate will be 17.70 percent, the "All Others" rate established in the LTFV. *See Orders on Certain Steel from Korea*. These cash deposit requirements, when imposed, shall remain in effect until further notice.

### 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.

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 31, 2007.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### International Trade Administration

A-570-886

### Polyethylene Retail Carrier Bags from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Review

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

**SUMMARY:** In response to a request from the Polyethylene Retail Carrier Bag Committee,<sup>1</sup> which represents domestic producers of polyethylene retail carrier bags, and individual requests from certain manufacturers/exporters of subject merchandise located in the People's Republic of China ("PRC"), the Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on polyethylene retail carrier bags ("PRCBs") from the PRC. The

<sup>1</sup> Consisting of Hilex Poly Company, LLC and the Superbag Corporation (collectively, "the petitioners").

Department has reviewed shipments of subject merchandise made by Dongguan Nozawa Plastics Products Co., Ltd. and United Power Packaging, Ltd. (collectively, "Nozawa"), and Rally Plastics Co., Ltd. ("Rally"), during the period August 1, 2005, through July 31, 2006.

We preliminarily find that Nozawa and Rally made U.S. sales below normal value ("NV") during the period of review ("POR"). The preliminary results are listed below in the section entitled "Preliminary Results of Review." If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection ("CBP") to assess the *ad valorem* margins against the entered value of each entry of the subject merchandise during the POR.

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

**FOR FURTHER INFORMATION CONTACT:**

Maisha Cryor, Zev Primor or Karine Gziryman, 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) 482-5831, (202) 482-4114, and (202) 482-4081, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On August 9, 2004, the Department published the antidumping duty order on PRCBs from the PRC. See *Antidumping Duty Order: Polyethylene Retail Carrier Bags From the People's Republic of China*, 69 FR 48201 (August 9, 2004). On August 1, 2006, the Department notified interested parties of the opportunity to request an administrative review of this antidumping duty order. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request an Administrative Review*, 71 FR 43441 (August 1, 2006). In accordance with 19 CFR 351.213(b), from August 11, 2006, through August 29, 2006, the Department received letters from the following companies in which each company requested that the Department conduct an administrative review of its sales to the United States made during the POR: Chun Hing Plastic Packaging Mfy. Ltd. and Chun Yip Plastic Bag Factory (collectively, "Chun Hing"); Crown Polyethylene Products (Int'l) Ltd. ("Crown"); Heng Rong Plastic Products Co., Ltd. ("Heng Rong"); Nozawa; Rally; and Samson Plastic Manufactory Co., Ltd. ("Samson"). On August 31, 2006, in accordance with 19 CFR 351.213(b), the petitioners requested that the Department conduct an administrative

review of Rally's sales of subject merchandise to the United States made during the POR. On September 29, 2006, the Department initiated an antidumping duty administrative review covering Chun Hing, Crown, Heng Rong, Nozawa, Rally, and Samson. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 71 FR 57465 (September 29, 2006) ("Initiation Notice").

The petitioners, on October 30, 2006, requested that the Department determine whether antidumping duties have been absorbed by the companies subject to the review. On November 20, 2006, Heng Rong notified the Department that it was withdrawing its request for administrative review. On November 20, 2006, the Department issued a quantity and value ("Q&V") questionnaire, and a separate rate application/certification, to all of the manufacturers/exporters noted above. Crown withdrew its request for review on November 28, 2006. The Department received responses to the Q&V questionnaire from Chun Hing, Samson, and Rally on December 4, 2007, and from Nozawa on December 8, 2007. Based upon these responses, the Department selected Nozawa and Rally as mandatory respondents in this administrative review on December 19, 2006. On that same day, the Department issued the standard non-market economy ("NME") antidumping duty questionnaire to Nozawa and Rally. On January 19, 2007, the Department received separate rate applications from Chun Hing and Samson. The Department issued a supplemental questionnaire to Chun Hing and Samson concerning their separate rate applications on February 15, 2007. Between January and July 2007, Nozawa and Rally submitted responses to the Department's original and supplemental questionnaires covering sections A, C, D, and E of the standard NME antidumping duty questionnaire.<sup>2</sup> The petitioners submitted comments on Rally's methodology for allocating its consumption of inputs on August 13, 2007, and Rally submitted rebuttal comments on August 20, 2007.

<sup>2</sup> Section A of the NME questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section C requests a complete listing of U.S. sales. Section D requests information on the factors of production of the merchandise sold in or to the United States. Section E requests information on further manufacturing.

**Period of Review**

The POR for this administrative review is August 1, 2005, through July 31, 2006.

**Scope of the 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 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 the subject merchandise are currently classifiable under statistical category 3923.21.0085 of the Harmonized Tariff Schedule of the United States ("HTSUS").<sup>3</sup> 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, our written description of the scope of this order is dispositive.

**Partial Rescission of Review**

In accordance with 19 CFR 351.213(d)(1), we are rescinding this administrative review with respect to Heng Rong and Crown. As noted above, on November 20 and 28, 2006, Heng

<sup>3</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>.

Rong and Crown, respectively, withdrew their requests for an administrative review. Since these requests to withdraw from the review were filed within 90 days of the *Initiation Notice*, and no other party requested an administrative review of U.S. sales made by either company, the Department is rescinding the review with respect to Heng Rong and Crown.

#### Partial Preliminary Rescission of Review

Samson reported that it had three sales during the POR. However, according to the entry summary information provided by Samson, all of these sales entered the United States after the POR. See Samson's January 19, 2007, separate rate application response at page 4 and Exhibit 1. The Department confirmed with Samson that it had no sales of subject merchandise that entered the United States during the POR. See Memorandum from Mark Manning, Program Manager, to the File, "Entries Of Subject Merchandise Made by Samson," dated August 30, 2007.

The Department's practice, supported by substantial precedent, requires that there be entries during the POR upon which to assess antidumping duties, to conduct an administrative review. See, e.g., *Certain Cut-To-Length Carbon-Quality Steel Plate Products From Italy: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 11178 (March 6, 2006) and *Certain Cut-to-Length Carbon-Quality Steel Plate Products From Italy: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 39299 (July 12, 2006) (unchanged in final results). Pursuant to 19 CFR 351.213(d)(3), the Department will rescind an administrative review in whole or only with respect to a particular exporter or producer if we conclude that during the period of review there were "no entries, exports, or sales of the subject merchandise." Since Samson confirmed that it did not enter subject merchandise into the United States during the POR, there are no entries to assess. Therefore, in accordance with 19 CFR 351.213(d)(3), we are preliminarily rescinding the administrative review with respect to Samson.

#### Duty Absorption

On October 30, 2006, the petitioners requested that the Department determine whether antidumping duties had been absorbed for U.S. sales of PRCBs made during the POR by Chun Hing, Crown, Nozawa, Heng Rong, Rally, and Samson. Section 751(a)(4) of

the Tariff Act of 1930, as amended ("the Act"), provides for the Department, if requested, to determine during an administrative review initiated two or four years after publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter, if the subject merchandise is sold in the United States through an affiliated importer. As noted above, we have rescinded the review for Crown and Heng Rong, and preliminarily rescinded for Samson, thus making the petitioner's request with respect to these companies moot. In addition, Rally and Chun Hing did not sell subject merchandise in the United States through an affiliated importer. Thus, according to section 751(a)(4) of the Act, we did not investigate whether Rally and Chun Hing absorbed duties. In this case, only Nozawa sold subject merchandise in the United States through an affiliated importer. Because the antidumping duty order underlying this review was issued in 2004, and this review was initiated in 2006, we are conducting a duty absorption investigation in this segment of the proceeding.

In determining whether the antidumping duties have been absorbed by the respondent, we presume the duties will be absorbed for those sales that have been made at less than NV. This presumption can be rebutted with evidence (e.g., an agreement between the affiliated importer and unaffiliated purchaser) that the unaffiliated purchaser will pay the full duty ultimately assessed on the subject merchandise. See, e.g., *Certain Stainless Steel Butt-Weld Pipe Fittings From Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part*, 70 FR 39735, 39737 (July 11, 2005), *Notice of Final Results and Final Rescission in Part of Antidumping Duty Administrative Review: Certain Stainless Steel Butt-Weld Pipe Fittings From Taiwan*, 70 FR 73727 (December 13, 2005) (unchanged in final results). Prior to these preliminary results, the Department asked Nozawa to provide evidence to demonstrate that its unaffiliated U.S. purchasers will pay any antidumping duties ultimately assessed on entries of subject merchandise. Nozawa did not respond to the Department's request. See Memorandum from Mark Manning, Program Manager, Ad/CVD Operations, Office 4, to the File, regarding "Nozawa's Response to Request for Duty Absorption Information," dated August 16, 2007. Accordingly, based on the information on the record, we cannot

conclude that the unaffiliated purchasers in the United States will pay the ultimately assessed duties. Because Nozawa did not rebut the duty-absorption presumption with evidence that its unaffiliated U.S. purchasers will pay the full duty ultimately assessed on the subject merchandise, we preliminarily find that antidumping duties have been absorbed by Nozawa on all U.S. sales made through its affiliated importers.

#### NME Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as an NME country. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. See *Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review*, 71 FR 66304 (November 14, 2006). None of the parties to this proceeding have contested such treatment. Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

#### Separate Rates

A designation of a country as an NME remains in effect until it is revoked by the Department. See section 771(18)(C) of the Act. Accordingly, there is a rebuttable presumption that all companies within the PRC are subject to government control and, thus, should be assessed a single antidumping duty rate. It is the Department's standard policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company-specific rate, the Department analyzes each exporting entity in an NME country under the test established in the *Final Determination of Sales at Less than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), as amplified by the *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).

The Department's separate-rate test determines whether the exporters are independent from government control and does not consider, in general,

macroeconomic/border-type controls, e.g., export licenses, quotas, and minimum export prices, particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From Ukraine*, 62 FR 61754, 61757 (November 19, 1997); and *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of Antidumping Administrative Review*, 62 FR 61276, 61279 (November 17, 1997).

Chun Hing, Nozawa, and Rally provided company-specific separate-rate information and stated that the standards for the assignment of separate rates have been met because they are privately-owned trading companies incorporated and based in Hong Kong. *See* Chun Hing's January 19, 2007, separate-rate application response at 17; Nozawa's March 16, 2007, response at A2; Rally's March 12, 2007, response at A2-A3. Because each of these companies is foreign owned, it is not necessary to undertake additional separate-rates analysis for the Department to determine that the export activities of Chun Hing, Nozawa, and Rally are independent from the PRC government's control. Accordingly, Chun Hing, Nozawa, and Rally are eligible for a separate rate. *See, e.g., Brake Rotors From the People's Republic of China: Preliminary Results of the Tenth New Shipper Review*, 69 FR 30875, 30876 (June 1, 2004), *Brake Rotors From the People's Republic of China: Final Results of the Tenth New Shipper Review*, 69 FR 52228 (August 25, 2004) (unchanged in the final results) ("Brake Rotors 10<sup>th</sup> NSR"); *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); and *Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 19026, 19027 (April 30, 1996). The Department calculated company-specific dumping margins for Nozawa and Rally, and assigned Chun Hing a dumping margin equal to the weighted-average of the dumping margins calculated for Nozawa and Rally.

#### Surrogate Country and Factors

On March 6, 2007, we issued to interested parties a list of possible surrogate market economy countries and invited parties to (1) comment on the

suitability of the countries for use in this administrative review and the level of PRCBs production in those countries, and (2) submit publicly available information from those countries to use in valuing the factors of production ("FOPs") used by the respondents to produce PRCBs. On April 3, 2007, the petitioners submitted information for the Department to consider in valuing the FOPs. Also on April 3, 2007, and June 18, 2007, Rally submitted information for the Department to consider in valuing the FOPs. All surrogate value data submitted by interested parties were from Indian sources. On May 31, 2007, the Department selected India as the surrogate market economy country for this administrative review.

#### Surrogate Country

When the Department analyzes imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's FOPs, valued in a surrogate market economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. On December 21, 2006, the Office of Policy issued a memorandum identifying India as being at a level of economic development comparable to the PRC for the POR. *See* Memorandum from Ron Lorentzen, Director, Office of Policy to Mark Manning, Program Manager, AD/CVD Operations, Office 4, "Administrative Review of Polyethylene Retail Carrier Bags from the People's Republic of China: Request for a List of Surrogate Countries," dated December 21, 2006.

In the Department's March 6, 2007, letter to interested parties requesting surrogate country and surrogate value comments, the Department noted that India is among the countries comparable to the PRC in terms of overall economic development. In addition, based on publicly available information placed on the record (*i.e.*, export data), India is a significant producer of the subject merchandise. *See* Memorandum from Zev Primor, Senior International Trade Compliance Analyst, through Mark Manning, Program Manager, to Abdelali Elouaradia, Office Director, "Antidumping Administrative Review of Polyethylene Retail Carrier Bags from the People's Republic of China:

Selection of a Surrogate Country," dated May 31, 2007. Furthermore, we note that India has been the primary surrogate country in past segments of this case, and both Rally and the petitioners submitted surrogate values based on Indian data that are contemporaneous to the POR, which gives further credence to the use of India as a surrogate country. The sources of the surrogate factor values are discussed under the "Normal Value" section below and in the Memorandum from Zev Primor, Senior International Trade Compliance Analyst, through Mark Manning, Program Manager, to the File, "Surrogate Values for the Preliminary Results," dated August 31, 2007 ("Surrogate Values Memorandum").

#### Normal Value Comparisons

To determine whether Nozawa's and Rally's sales of the subject merchandise to the United States were made at a price below NV, we compared their U.S. price to NV, as described in the "U.S. Price" and "Normal Value" sections of this notice.

#### U.S. Price

##### A. Export Price

In accordance with section 772(a) of the Act, we calculated the export price ("EP") for sales to the United States by Rally and certain sales by Nozawa because the first sale to an unaffiliated party was made before the date of importation and the use of constructed EP ("CEP") was not otherwise warranted. We calculated EP for Nozawa and Rally based on the prices to unaffiliated purchasers in the United States. For Nozawa, in accordance with section 772(c) of the Act, we first added gross unit price adjustments and then deducted from the price to unaffiliated purchasers, where appropriate, foreign inland freight, brokerage and handling, international freight, and marine insurance. *See* Memorandum from Zev Primor, Senior International Trade Compliance Analyst, to the File, "Analysis for the Preliminary Results of the 2005-2006 Administrative Review of Polyethylene Retail Carrier Bags from the People's Republic of China: Dongguan Nozawa Plastic Products Co., Ltd., and United Power Packaging Ltd.," dated August 31, 2007 ("Nozawa Preliminary Analysis Memorandum"). For Rally, also in accordance with section 772(c) of the Act, we first added gross unit price adjustments and then deducted from the price to unaffiliated purchasers, where appropriate, foreign inland freight, brokerage and handling, international freight, and marine

insurance. See Memorandum from Maisha Cryor, Senior International Trade Compliance Analyst, to the File, regarding "Analysis Memorandum for the Preliminary Results of Rally Plastics Co., Ltd.," dated August 31, 2007 ("Rally Preliminary Analysis Memorandum").

#### B. Constructed Export Price

In accordance with section 772(b) of the Act, CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under sections 772(c) and (d) of the Act. In accordance with section 772(b) of the Act, we used CEP for certain of Nozawa's sales because Nozawa sold its subject merchandise to its affiliated companies in the United States Kal Pac Corporation ("Kal Pac") and Packaging Solutions, Inc. ("PSI"), which, in turn, made the first sales of subject merchandise to unaffiliated U.S. customers. In addition, Nozawa reported that PSI made sales of subject merchandise which it further manufactured in the United States.

We added twelve types of miscellaneous revenue to the gross unit price. See Nozawa Preliminary Analysis Memorandum at 2. In accordance with section 772(c)(2) of the Act, we made deductions from Nozawa's starting price for early payment discounts, rebates, foreign inland freight from the plant to the port of exportation, international freight, marine insurance, brokerage and handling, U.S. devanning expense, U.S. duty, inland freight from the warehouse to the unaffiliated U.S. customer, and commissions. Where foreign movement expenses or international movement expenses were provided by NME service providers or paid for in an NME currency, we valued these services using surrogate values. See Surrogate Values Memorandum at Attachment VII. For those expenses that were provided by a market economy provider and paid for in market economy currency, we deducted the actual expenses incurred. See Nozawa Preliminary Analysis Memorandum at 2. In accordance with section 772(d)(1) of the Act, the Department additionally deducted credit expenses, inventory carrying costs, and U.S. indirect selling expenses from the U.S. price, all of which relate to commercial activity in the United States. We calculated Nozawa's credit expenses and inventory carrying costs based on the Federal

Reserve short-term rate because Nozawa reported that neither Kal Pac nor PSI had short-term borrowings during the POR.

We also deducted an amount for further-manufacturing costs, where applicable, in accordance with section 772(d)(2) of the Act. To calculate the cost of further manufacturing in the United States, we relied on PSI's reported cost of materials, labor, overhead, general and administrative expenses, and financial expenses of the further manufactured materials. In addition, we deducted CEP profit in accordance with sections 772(d)(3) and 772(f) of the Act.

#### C. Surrogate Values for Expenses Incurred in the PRC for U.S. Sales

Nozawa and Rally reported that for certain U.S. sales, foreign inland freight was provided by an NME vendor or paid for using an NME currency. In such instances, we based the deduction of these charges on surrogate values. We valued foreign inland freight with the surrogate value for truck freight. For foreign brokerage and handling as well as international freight, Nozawa and Rally reported using market economy vendors and stated that these expenses were paid for in a market economy currency. Where movement services were provided by a market economy vendor and paid for in a market economy currency, we deducted the actual cost per kilogram of the freight. See Surrogate Values Memorandum at Attachment IX.

#### Normal Value

##### 1. Methodology

Section 773(c)(1)(B) of the Act provides that the Department shall determine the NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department bases NV on the FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.

The FOPs for PRCBs include: (1) quantities of raw materials employed; (2) hours of labor required; (3) amounts of energy and other utilities consumed; (4) representative capital and selling costs; and (5) packing materials. We used the FOPs reported by respondents for materials, energy, labor, by-products, and packing.

In accordance with 19 CFR 351.408(c)(1), when a producer sources an input from a market-economy country and pays for it in a market-economy currency, the Department will normally value the factor using the actual price paid for the input. See 19 CFR 351.408(c)(1); see also *Lasko Metal Products v. United States*, 43 F.3d 1442, 1445-1446 (Fed. Cir. 1994) (affirming the Department's use of market-based prices to value certain FOPs). Where a portion of the input is purchased from a market-economy supplier and the remainder from an NME supplier, the Department will normally use the price paid for the inputs sourced from market-economy suppliers to value all of the input, provided the volume of the market-economy inputs as a share of total purchases from all sources is "meaningful." See *Antidumping Duties; Countervailing Duties; Final rule*, 62 FR 27296, 27366 (May 19, 1997); *Shakeproof v. United States*, 268 F.3d 1376, 1382 (Fed. Cir. 2001). See also 19 CFR 351.408(c)(1).

##### 2. Factor Methodology

During the POR, Nozawa did not produce certain types of merchandise that were sold during the POR. Consequently, the original FOP database filed by Nozawa did not contain factors of production for those control numbers ("CONNUMs") sold but not produced by Nozawa during this POR. Because the vast majority of the CONNUMs sold by Nozawa were produced during this POR or the prior POR, Nozawa also submitted on the record of this review the FOP database from the prior review (*i.e.*, the first administrative review). In addition, Nozawa submitted an FOP database incorporating the FOPs for all CONNUMs sold during the POR, using both production data from this and the prior POR. Therefore, for purposes of factor valuation, the Department is using the FOP database incorporating all CONNUMs sold during the POR. We note that certain FOP data were based on similar CONNUMs where the product was not produced in either this or the prior POR. The Department reviewed Nozawa's identification of the most similar matches for the CONNUMs sold but not produced during the first or second POR. In doing so, we determined the product characteristics which have the most significant impact on the cost of materials and then compared all product characteristics of the actual CONNUMs to the product characteristics of the proposed matching CONNUMs. We found that Nozawa's proposed matches were identical in the most significant product characteristics and had some insignificant differences

in other characteristics. Therefore, we accepted Nozawa's assignment of the most similar CONNUMs for those products sold but not produced during the POR. See Nozawa Preliminary Analysis Memorandum, at 3.

With respect to Rally, we note that certain bag types produced by Rally contain certain attachments (e.g., plastic handles, plastic drawstring). Rally asserts that it reported its FOPs using an allocation methodology that assigns the consumption of the materials used to produce the attachments equally across all products. In a supplemental questionnaire, the Department asked Rally to allocate its consumption of materials used to produce these attachments to those CONNUMs that actually incorporate these items. See the Department's May 27, 2007, section D supplemental questionnaire, at question 54.d. Rally replied that its accounting system does not track costs at this level and they could not report the FOPs in the manner requested by the Department. However, Rally claims that its material FOPs are based on a reasonable allocation methodology. See Rally's June 6, 2007, supplemental section D response at 23.

The Department has analyzed Rally's reported sales and consumption data and has made the following determinations. We find that, on an aggregate basis, as would be expected, Rally's total quantity of inputs consumed to produce all subject merchandise sold in the U.S. market during the POR is greater than the total weight of all finished subject merchandise sold in the U.S. market during the POR. See Rally Preliminary Analysis Memorandum. However, on a CONNUM-specific level, we find that the total quantity of inputs consumed is less than the total finished weight for many CONNUMs, the vast majority of which have attachments. *Id.* Thus, Rally's inability to allocate the materials consumed for the attachments to the CONNUMs that actually have attachments has distorted the reported FOPs. In order to correct this distortion for the relevant CONNUMs, the Department increased the total reported materials weight by the appropriate percentage so that the revised input material weight is equal to the finished weight of the CONNUM, plus Rally's average yield loss percentage. *Id.* The Department will continue to examine this issue for the final results and will allow Rally one last opportunity to provide alternative methods of allocating its FOPs.

## 2. Factors of Production Valuation

In accordance with section 773(c) of the Act, we calculated NV based on the FOPs reported by respondents for the POR. To calculate NV, we multiplied the reported per-unit factor—consumption rates by publicly available surrogate values. In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data.

Except as noted below, we valued raw material inputs using the weighted-average unit import values derived from the Monthly Statistics of the Foreign Trade of India, as published by the Directorate General of Commercial Intelligence and Statistics of the Ministry of Commerce and Industry, Government of India in the World Trade Atlas, available at <http://www.gtis.com/wta.htm> ("WTA"). For those surrogate values based upon Indian import statistics, we disregarded prices which we have reason to believe or suspect may be subsidized. We have reason to believe or suspect that prices of inputs from Indonesia, South Korea, and Thailand may have been subsidized. We have found in other proceedings that these countries maintain broadly available, non-industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized. See *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004) and accompanying Issues and Decision Memorandum at Comment 7; see also *Certain Cut-to-Length Carbon Steel Plate from Romania: Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 12651 (March 15, 2005) and accompanying Issues and Decision Memorandum at Comment 4. The legislative history provides that in making its determination as to whether input values may be subsidized, the Department is not required to conduct a formal investigation; rather, Congress directed the Department to base its decision on information that is available to it at the time it makes its determination. See H.R. Rep. 100-576, at 590 (1988), reprinted in 1988 U.S.C.C.A.N. 1547, 1623-24. Therefore, based on the information currently available, we have not used prices from these countries in calculating the surrogate values based on Indian import data. We have also disregarded Indian import data from countries that the Department has previously determined

to be NME countries, as well as imports originating from "unspecified" countries because the Department could not be certain that they were not from either an NME or a country with generally available export subsidies. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates From the People's Republic of China*, 69 FR 75294, 75300 (December 16, 2004), *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China*, 70 FR 24502 (May 10, 2005) (unchanged in the final results). For a comprehensive list of the sources and data used to determine the surrogate values for the FOPs, by-products, and the surrogate financial ratios for factory overhead, selling, general and administrative expenses ("SG&A"), and profit, see *Surrogate Values Memorandum at Attachments I and IX*.

Where appropriate, we adjusted the Indian import prices by including freight costs to make them delivered prices. Specifically, we added to the Indian import prices a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory of production or the distance from the nearest seaport to the factory of production where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F.3d 1401, 1407-1408 (Fed. Cir. 1997). Where we did not use Indian import data as the basis of the surrogate value, we calculated inland freight based on the reported distance from the supplier to the factory. We used the freight rates obtained from [www.infreight.com](http://www.infreight.com) to value truck freight. See *Surrogate Values Memorandum at Attachment VIII*.

It is the Department's practice to calculate price index adjusters to inflate or deflate, as appropriate, surrogate values that are not contemporaneous with the POR using the wholesale price index for the subject country. See *Certain Preserved Mushrooms from the People's Republic of China: Final Results of the Antidumping Duty New Shipper Review*, 71 FR 66910 (November 17, 2006). Therefore, where publicly available information contemporaneous with the POR could not be obtained, surrogate values were adjusted using the Wholesale Price Index for India, as published in the *International Financial Statistics* of the International Monetary Fund.

To value electricity, we used the 2000 electricity price data from International

Energy Agency, Energy Prices and Taxes—Quarterly Statistics (First Quarter 2003), adjusted for inflation. See Surrogate Values Memorandum at Attachment V.

For direct labor, indirect labor, and packing labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression-based wage rate as reported on Import Administration's web site. See Expected Wages of Selected NME Countries (revised November 2005) (available at <http://ia.ita.doc.gov/wages>). The source of these wage rate data on the Import Administration's website is the Yearbook of Labour Statistics 2003, ILO, (Geneva: 2003), Chapter 5B: Wages in Manufacturing. The years of the reported wage rates range from 2003 through 2004. Because this regression-based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by each respondent. See Surrogate Value Memorandum at Attachment VI.

To value factory overhead, SG&A, and profit values, we used information from Smitabh Intercon Limited; M/S Carry Print (India) Private Limited; Kuloday Plastomers Private Limited; Sangeeta Poly Pack Private Limited; and A.P. Polyplast Private Limited for the fiscal year ending March 31, 2006. From this information, we were able to determine factory overhead as a percentage of the total raw materials, labor and energy ("ML&E") costs; SG&A as a percentage of ML&E plus overhead (*i.e.*, cost of manufacture); and profit as a percentage of the cost of manufacture plus SG&A. See Surrogate Values Memorandum at Attachment VII.

For packing materials, we used the per-kilogram values obtained from the WTA and made adjustments to account for freight costs incurred between the PRC supplier and Rally's plant. See Surrogate Values Memorandum at Attachment II.

#### Currency Conversion

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Bank.

#### Preliminary Results of the Review

The Department has determined that the following preliminary dumping margins exist for the period August 1, 2005, through July 31, 2006:

#### POLYETHYLENE RETAIL CARRIER BAGS FROM THE PRC

Manufacturer/Exporter	Weighted-Average Margin (Percent)
Chun Hing Plastic Packaging Mfy. Ltd. and Chun Yip Plastic Bag Factory .....	13.35
Dongguan Nozawa Plastics Products Co., Ltd. and United Power Packaging, Ltd. ....	2.54
Rally Plastics Co., Ltd. ....	31.71

#### Disclosure

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. See 19 CFR 351.309(c)(1)(ii). Interested parties may submit publicly available information to value factors no later than 20 days after the date of publication of these preliminary results of review. See 19 CFR 351.301(c)(3)(ii). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than five days after the time limit for filing the case briefs. See 19 CFR 351.309(d). The Department requests that parties submitting written comments also provide the Department with an additional copy of those comments on diskette.

Any interested party may request a hearing within 30 days of publication of these preliminary results. See 19 CFR 351.310(c). Requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If we receive a request for a hearing, we intend to hold the hearing seven days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The Department intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

#### Assessment Rates

Upon issuance of the 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 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-specific) *ad valorem* or, where the entered value was not known by the respondent, per-unit 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, or total quantity, of those same sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific or customer-specific assessment rate calculated in the final results of this review is above *de minimis*.

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of the administrative review for shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided by section 751(a)(2)(C) of the Act: (1) for subject merchandise exported by Chun Hing, Nozawa, and Rally, the cash-deposit rate will be that established in the final results of review (except, if the rate is zero or *de minimis*, no cash deposit will be required); (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 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, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also 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.

This administrative review and this notice are in accordance with sections 751(a)(1) and 777(i) of the Act, 19 CFR 351.213, and 19 CFR 351.221(b)(4).

Dated: August 31, 2007.

**David M. Spooner,**  
Assistant Secretary for Import  
Administration.

[FR Doc. E7-17751 Filed 9-7-07; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration (A-533-810)

#### Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review: Stainless Steel Bar from India

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

**SUMMARY:** On March 7, 2007, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on stainless steel bar from India. The period of review is February 1, 2005, through January 31, 2006. This review covers sales of stainless steel bar from India with respect to eight producers/exporters. We provided interested parties with an opportunity to comment on the preliminary results of this review. We have noted the changes made since the preliminary results below in the "Changes Since the Preliminary Results" section, below. The final results are listed below in the "Final Results of Review" section.

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

**FOR FURTHER INFORMATION CONTACT:** Scott Holland or Brandon Farlander, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482-1279 and (202) 482-0182, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On March 7, 2007, the Department of Commerce ("the Department") published *Notice of Preliminary Results*

*of Antidumping Duty Administrative Review, Intent to Rescind and Partial Rescission of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 72 FR 10151 (March 7, 2007) ("Preliminary Results") in the **Federal Register**.

On March 14, 2007, we issued a supplemental questionnaire to respondent Bhansali Bright Bars Pvt. Ltd. ("Bhansali") to correct information contained in the initial questionnaire responses. On March 28, 2007, we received a timely response to this questionnaire from Bhansali. On April 5, 2007, we met with counsel for Carpenter Technology Corporation, Crucible Specialty Metals, a division of Crucible Materials Corporation, Electralloy Company, North American Stainless, Universal Stainless, and Valbruna Slater Stainless (collectively, the "petitioners") to discuss the review-specific average rate applied at the *Preliminary Results* to the respondents that were not selected for individual examination in the review by the Department.<sup>1</sup>

On May 19, 2007, Bhansali submitted a listing of pre-verification corrections to its home market sales listing. On July 5, 2007, the Department published in the **Federal Register** an extension of the time limit for the final results in the antidumping duty administrative review to no later than September 4, 2007, in accordance with 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"). See *Stainless Steel Bar from India: Extension of Time Limit for the Final Results of the Antidumping Duty Administrative Review*, 72 FR 36668 (July 5, 2007).

On July 24, 2007, we notified interested parties that comments on the *Preliminary Results* were due on July 31, 2007, and rebuttal comments were due on August 10, 2007. See *Memorandum to the File, "Briefing Schedule for Comments on the Preliminary Results in the 2005/2006 Antidumping Duty Administrative Review of Stainless Steel Bar from India,"* dated July 24, 2007. On July 25, 2007, we requested that Bhansali and Venus submit revised sales and cost listings to the Department. We received revised home market sales listings from Venus, and revised sales and cost listings from Bhansali in August 2007.

On July 31, 2007, we received case briefs from the petitioners and Bhansali. On August 2, 2007, we rejected Bhansali's case brief, in accordance with

19 CFR 351.302(d)(i) of the Department's regulations, because it contained new and untimely filed information. On August 4, 2007, we received a revised case brief from Bhansali. On August 6, 2007, we received a rebuttal brief from Bhansali. On August 10, 2007, the petitioners and interested parties Facor Steels, Ltd. ("Facor") and Mukand Ltd. ("Mukand") filed rebuttal briefs. We did not receive comments from Venus. The Department did not receive a request for a public hearing from interested parties.

#### Scope of the Order

Imports covered by the order are shipments of stainless steel bar ("SSB"). SSB means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. SSB includes cold-finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut-to-length flat-rolled products (i.e., cut-to-length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (i.e., cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes, and sections.

The SSB subject to these reviews is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedule of the United States* ("HTSUS"). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

On May 23, 2005, the Department issued a final scope ruling that SSB manufactured in the United Arab Emirates out of stainless steel wire rod from India is not subject to the scope of

<sup>1</sup> For the *Preliminary Results*, the Department applied the review-specific, average rate to the following respondents: Isibars Limited, Grand Foundry, Ltd., Sindia Steels Limited, Snowdrop Trading Pvt. Ltd., Facor Steels, Ltd., and Mukand Ltd. See the *Preliminary Results* at 10157.