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[FR Doc. 04-13815 Filed 6-17-04; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-557-813]

Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags From Malaysia

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

EFFECTIVE DATE: June 18, 2004.

SUMMARY: On January 26, 2003, the Department of Commerce published its preliminary determination of sales at less than fair value of the investigation on polyethylene retail carrier bags from Malaysia. The period of investigation is April 1, 2002, through March 31, 2003. The investigation covers six manufacturers/exporters.

We invited interested parties to comment on our preliminary determination of sales at less than fair value. Based on our analysis of the comments received, we have made changes to our calculations. The final dumping margins for this investigation are listed in the "Final Determination Margins" section below.

FOR FURTHER INFORMATION CONTACT:

David Dirstine (Bee Lian Plastic Industries Sdn. Bhd.) or Catherine Cartos (Teong Chuan Plastic and Timber Sdn. Bhd.), Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-4033 or (202) 482-1757, respectively.

Final Determination

We determine that polyethylene retail carrier bags (PRCBs) from Malaysia are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at less than fair value (LTFV) are shown in the AFinal Determination Margins' section of this notice.

Case History

The preliminary determination of sales at LTFV in this investigation was issued on January 21, 2004. See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Polyethylene Retail Carrier Bags from Malaysia*, 69 FR 35557 (January 26, 2004) (*Preliminary Determination*).

Since the *Preliminary Determination* the following events have occurred. Pursuant to section 782(i) of the Act, we conducted verification of the questionnaire responses of the sole responsive exporter in this case, Bee Lian Plastic Industries Sdn. Bhd. (Bee Lian), in March 2004. We gave interested parties an opportunity to comment on the *Preliminary Determination*. In April 2004, we received case and rebuttal briefs from the Polyethylene Retail Carrier Bag Committee and its individual members, PCL Packaging, Inc., Hilex Poly Co. LLC, Superbag Corp., Vanguard Plastics, Inc., and Interplast Group, Ltd. (the

petitioners), and Bee Lian. We also received a case brief from the Malaysian Plastic Manufacturers Association. The Department held a public hearing on April 23, 2004, at the request of the petitioners.

Period of Investigation

The period of investigation (POI) is April 1, 2002, through March 31, 2003, which corresponds to the four most recent fiscal quarters prior to the June 20, 2003, filing of the petition.

Scope of Investigation

The merchandise subject to this investigation is polyethylene retail carrier bags, 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 .035 inch (0.889 mm) and no less than .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 classified under statistical category 3923.21.0090 of the *Harmonized Tariff Schedule of the United States* (HTSUS). This subheading also covers 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 investigation is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping investigation are addressed in the "Issues and Decision Memorandum" (*Decision*

Memorandum) from Jeffrey May, Deputy Assistant Secretary, Import Administration, to James J. Jochum, Assistant Secretary for Import Administration, dated June 9, 2004, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the *Decision Memorandum*, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B-099 of the main Department of Commerce building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at <http://ia.ita.doc.gov/>. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Use of Facts Otherwise Available

As explained in the *Preliminary Determination*, because some companies failed to respond, wholly or in part, to our request for information, we have found that they failed to cooperate to the best of their ability. Therefore, pursuant to section 776(b) of the Act, we have used an adverse inference in selecting from the facts available for the margins for these companies. See Memorandum from Laurie Parkhill to Jeffrey May, dated January 16, 2004, "Determination to Apply Adverse Facts Available and the Calculation of the Adverse Facts-Available Rate" (*AFA Memo*).

As adverse facts available, we have examined the margins that the petitioners alleged in their June 30, 2003, response to our June 25, 2003, letter requesting supplemental information with respect to the petition and selected the higher of the two margins; that rate is 101.74 percent.

Section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate secondary information used for facts available by reviewing independent sources reasonably at its disposal. Information from the petitioners constitutes secondary information. The Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, Vol. 1, at 870 (1994) (SAA), provides that the word "corroborate" means that the Department will satisfy itself that the secondary information to be used has probative value.

As discussed in the *AFA Memo*, we found that the export-price and normal-value information in the supplemental petition was reasonable and, therefore,

we preliminarily determined that the information had probative value. Accordingly, we find that the highest margin based on that information, 101.74 percent, is corroborated within the meaning of section 776(c) of the Act.

Furthermore, there is no information on the record that demonstrates that the rate we have selected is an inappropriate total adverse facts—available rate for the companies in question. Therefore, we consider the selected rate to have probative value with respect to the firms in question and to reflect the appropriate adverse inference.

Accordingly, we have applied a margin of 101.74 percent to Branpak Industries Sdn. Bhd., Gants Pac Industries, Sido Bangun, Zhin Hin/Chin Hin, and Teong Chuan.

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.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by the respondent.

Changes Since the Preliminary Determination

Based on our analysis of comments received, we have made certain changes to the margin calculations. For a discussion of these changes, see Memorandum to the File from David Dirstine, dated June 9, 2004, Final Determination Analysis Memorandum for Bee Lian Plastic Industries Sdn. Bhd. (Bee Lian)—Polyethylene Retail Carrier Bags from Malaysia.

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct Customs and Border Protection (CBP) to continue to suspend liquidation of all imports of subject merchandise from Malaysia (except for entries of Bee Lian because this company has a *de minimis* margin) entered, or withdrawn from warehouse, for consumption on or after January 26, 2004, the date of the publication of our preliminary determination. The CBP shall continue to require a cash deposit or the posting of a bond equal to the

estimated amount by which the normal value exceeds the U.S. price as shown below. These instructions suspending liquidation will remain in effect until further notice.

Final Determination Margin

The weighted-average dumping margins are as follows:

Exporter or producer	Weighted-average percent margin
Bee Lian Plastic Industries Sdn. Bhd	00.91
Teong Chuan Plastic and Timber Sdn. Bhd	101.74
Brandpak Industries Sdn. Bhd	101.74
Gants Pac Industries	101.74
Sido Bangun Sdn. Bhd	101.74
Zhin Hin/Chin Hin Plastic Manufacturer Sdn. Bhd	101.74
All Others	84.94

All Others

All companies that we examined have either a *de minimis* margin or rates based on total adverse facts available. Therefore, for purposes of determining the all-others rate and pursuant to section 735(c)(5)(B) of the Act, we have calculated a simple average of the six margin rates we have determined in the investigation. See All-Others Rate Calculation Memorandum from Laurie Parkhill to Jeffrey May, dated January 16, 2004.

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

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our final determination of sales at LTFV. As our final determination is affirmative and in accordance with section 735(b)(2) of the Act the ITC will, within 45 days, 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 the CBP to assess 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 (*i.e.*, January 26, 2004).

Notification Regarding APO

This notice also serves as a reminder to 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/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.

Dated: June 9, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

Appendix—Issues in the Decision Memorandum

1. All-Others Rate
2. Rejection of Bee Lian's Response and Application of Total Adverse Facts Available
3. Determination of Production and Sales Quantities
4. Offset to Cost of Manufacturing (COM) for the Sale of Recycled Resin Produced from Scrap and Misprinted Bags
5. Value of Recycled Resin Used in Production
6. Average Resin Cost by Type
7. Application of Auditors Year-End Adjustments
8. General, Administrative and Financial Expenses of Affiliated Companies
9. Treatment of Glue Spots as Cost of Materials Instead of Packing Cost
10. Billing Adjustments
11. Affiliation of Bee Lian and Certain U.S. Customers

[FR Doc. 04-13816 Filed 6-17-04; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-887]

Final Determination of Sales at Less Than Fair Value: Tetrahydrofurfuryl Alcohol From the People's Republic of China

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

ACTION: Notice of final determination of sales at less than fair value.

EFFECTIVE DATE: June 18, 2004.

FOR FURTHER INFORMATION CONTACT:

Catherine Bertrand or Peter Mueller, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-3207 and (202) 482-5811, respectively.

Final Determination

We determine that tetrahydrofurfuryl alcohol from the People's Republic of China ("PRC") is being, or is 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 estimated margin of dumping is shown in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

We published in the **Federal Register** the preliminary determination in this investigation on January 27, 2004. See *Notice of Preliminary Determination of Sales at Less Than Fair Value: Tetrahydrofurfuryl Alcohol from the People's Republic of China*, 69 FR 3887 (January 27, 2004) ("Preliminary Determination"). Since the publication of the *Preliminary Determination*, the following events have occurred.

On February 4, 2004, the respondent, Qingdao (F.T.Z.) Wenkem Trading Company, Ltd. ("QWTC"), submitted its Section D supplemental questionnaire response. Also on February 4, 2004, the Department received pre-verification comments from the petitioner.

From February 9 through 12, 2004, the Department conducted a factors of production verification at Zhucheng Huaxiang Chemical Co., Ltd. ("ZHC"). On February 13, 2004, the Department conducted a sales verification at QWTC.

On February 24, 2004, the petitioner submitted a request for a public hearing in accordance with 19 CFR 351.310(c). On April 28, 2004, the petitioner withdrew its request for a hearing. Because the petitioner was the only party to request a hearing, and because it was withdrawn in a timely manner, the Department did not conduct a hearing.

On February 27, 2004, the Department received a request from QWTC for a postponement of the final determination. On March 15, 2004, the Department postponed the final determination, in accordance with section 735(a)(2) of the Act by no later than 135 days after the publication of preliminary determination in the **Federal Register**. Therefore, the final determination was postponed until June 10, 2004. See *Notice of Postponement of Final Determination of Antidumping*

Duty Investigation: Tetrahydrofurfuryl Alcohol from the People's Republic of China, 69 FR 12127 (March 15, 2004).

In the *Preliminary Determination*, we stated that if we made a change in our normal calculation methodology previous to the final determination, we would release to interested parties for comment a preliminary calculation sheet and analysis memorandum using that methodology. On March 9, 2004, the Department released to the interested parties its post-preliminary calculation, which included a factor value memorandum, an analysis memorandum with an attachment, and a print-out of the log for the margin calculation. See post-preliminary calculation.

On March 10, 2004, the Department released its factors of production and sales verification report to interested parties. See *Verification of Factors of Production for Zhucheng Huaxiang Chemical Co., Ltd. ("ZHC") and for the Sales of Qingdao Wenkem (F.T.Z.) Trading Co., Ltd. ("QWTC") in the Antidumping Duty Investigation of Tetrahydrofurfuryl Alcohol from the People's Republic of China ("PRC") ("Verification Report")*.

On March 15, 2004, the petitioner requested an extension for the time limit for submitting the case briefs and rebuttal briefs. On March 16, 2004, the Department granted interested parties a sixteen-day extension for submission of the case briefs and explained that the rebuttal briefs would be due five days thereafter.

On March 19, 2004, QWTC submitted comments to the Department's post-preliminary calculation.

On March 23, 2004, the petitioner placed on the record public information for the purpose of providing the Department with additional information to be used in valuing the factors of production.

On April 5, 2004, the petitioner submitted its case brief with respect to the sales and factors of production verification and the Department's *Preliminary Determination*. On April 5, 2004, QWTC submitted its "Comments on the Calculation of Normal Value" with respect to the sales and factors of production verification and the Department's preliminary determination. On April 7, 2004, the Department placed a memorandum in the file explaining that the respondent's document titled, "Comments on the Calculation of Normal Value," was in fact the respondent's case brief. On April 7, 2004, the Department rejected both the petitioner's case brief and the respondent's case brief, concluding that the each contained new information that