

**DEPARTMENT OF COMMERCE****International Trade Administration**

[A-549-821]

**Polyethylene Retail Carrier Bags from Thailand: Final Results and Partial Rescission of Antidumping Duty Administrative Review**

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

**SUMMARY:** On September 9, 2008, the Department of Commerce published the preliminary results of the 2006/2007 administrative review of the antidumping duty order on polyethylene retail carrier bags from Thailand. We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received and an examination of our calculations, we have made certain changes for the final results. The final weighted-average dumping margins for the respondents are listed below in the "Final Results of the Review" section of this notice.

**EFFECTIVE DATE:** January 15, 2009.

**FOR FURTHER INFORMATION CONTACT:** Kristin Case or Richard Rimlinger, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-3174 or (202) 482-4477, respectively.

**SUPPLEMENTARY INFORMATION:****Background**

On September 9, 2008, the Department of Commerce (the Department) published *Polyethylene Retail Carrier Bags from Thailand: Preliminary Results of Antidumping Duty Administrative Review and Intent to Rescind in Part*, 73 FR 52288 (September 9, 2008) (*Preliminary Results*), in the **Federal Register**. The administrative review covers the following producers/exporters: King Pac Industrial Co., Ltd. (King Pac), Naraipak Co., Ltd., and Narai Packaging (Thailand) Ltd. (collectively NPG), Poly Plast (Thailand) Co., Ltd. (Poly Plast), and Master Packaging Co., Ltd. (Master Packaging).<sup>1</sup> The period of review is August 1, 2006, through July 31, 2007.

We invited parties to comment on the *Preliminary Results*. On October 15, 2008, we received case briefs from the

Polyethylene Retail Carrier Bag Committee and its individual members, Hilex Poly Co., LLC, and Superbag Corporation (collectively, the petitioners), and KYD Ltd. (KYD), an importer of subject merchandise. On October 23, 2008, we received rebuttal briefs from the petitioners and KYD. At the request of KYD, we held a public hearing on October 29, 2008.

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

**Scope of the Order**

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

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

As a result of recent changes to the *Harmonized Tariff Schedule of the United States* (HTSUS), imports of the subject merchandise are currently classifiable under statistical category 3923.21.0085 of the HTSUS. Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

**Rescission**

In the *Preliminary Results*, we explained that Kor Ratthanakit Co., Ltd. (Kor Ratthanakit), reported that it had no shipments of subject merchandise

covered by this review. Additionally, we stated that, because our review of information from U.S. Customs and Border Protection (CBP) supported Kor Ratthanakit's claim, we would rescind the review with respect to Kor Ratthanakit if we continued to find that Kor Ratthanakit did not have any shipments of subject merchandise to the United States during the period of review. See *Preliminary Results*, 73 FR at 52289. Because we have not received information indicating that Kor Ratthanakit had any shipments of subject merchandise during the period of review we are rescinding the administrative review with respect to Kor Ratthanakit.

**Analysis of Comments Received**

All issues raised in the case and rebuttal briefs by parties to this review are addressed in the Issues and Decision Memorandum for the Antidumping Duty Administrative Review of Polyethylene Retail Carrier Bags from Thailand for the Period of Review August 31, 2006, through July 31, 2007 (Decision Memorandum), which is dated January 7, 2009, and hereby adopted by this notice. Attached to this notice as an appendix is a list of the issues which parties have raised and to which we have responded in the Decision Memorandum. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Department's Central Records Unit, Room 1117 of the main Commerce building (CRU). In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at <http://ia.ita.doc.gov/frn>. The paper copy and electronic version of the Decision Memorandum are identical in content.

**Changes Since the Preliminary Results**

In our preliminary results for NPG, we used the most recently submitted cost-of-production data, received on August 25, 2008, but we did not use the updated constructed-value data contained in the same submission. Because this submission contained both revised cost and constructed-value data, we have used all of this data in the calculation of NPG's final dumping margin.

For Poly Plast, we found it appropriate to assign partial adverse facts available to certain unreported U.S. sales. During the course of verification of the information Poly Plast submitted in this review, we found that Poly Plast did not report certain U.S. sales of subject merchandise. Because the administrative record lacks

<sup>1</sup> As discussed in the *Preliminary Results*, we considered both King Pac and King Pak Ind. Co., Ltd. (King Pak), to be alternative spellings of the name of one company. See *Preliminary Results*, 73 FR at 52288, n. 1.

all of the information necessary to calculate dumping margins for these sales, we find it appropriate to rely on partial facts available pursuant to section 776(a) of the Act. Furthermore, because Poly Plast possessed the necessary records to provide a complete U.S. sales list but did not do so, we find that it did not act to the best of its ability to comply with our request for information.

Accordingly, because Poly Plast failed to cooperate in reporting all of its U.S. sales of subject merchandise, we find that use of information adverse to the interests of Poly Plast, as facts otherwise available, is appropriate pursuant to section 776(b) of the Act. As adverse facts available we have applied the highest transaction-specific margin we determined for sales Poly Plast reported to the value of unreported U.S. sales. For a complete discussion on this issue, see Decision Memorandum at Comment 2.

**Sales Below Cost in the Home Market**

For these final results of review, the Department disregarded home-market sales by NPG and Poly Plast that failed the cost-of-production test.

**Final Results of the Review**

As a result of our review, we determine that the following percentage weighted-average dumping margins exist on PCRBs from Thailand for the period August 1, 2006, through July 31, 2007:

Producer/Exporter	Margin (percent)
King Pac (aka King Pak) .....	122.88
Master Packaging .....	122.88
NPG .....	32.67
Poly Plast .....	8.94

**Assessment Rates**

Upon issuance of these final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

We calculated importer/customer-specific duty-assessment amounts with respect to export-price sales by NPG and Poly Plast in the following manner. We divided the total dumping margins (calculated as the difference between normal value and the export price) for each exporter's importer or customer by the total number of units the exporter sold to that importer or customer. We will direct CBP to assess the resulting per-unit dollar amount against each

unit of merchandise on each of that importer's or customer's entries during the review period. See 19 CFR 351.212(b)(1). Where the assessment amount is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer or customer.

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 period of review produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to an 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.

Because we are relying on total adverse facts available to establish the dumping margins for King Pac and Master Packaging, we will instruct CBP to apply a dumping margin of 122.88 percent to all entries of subject merchandise produced and/or exported by these companies.

**Cash-Deposit Requirements**

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication, consistent with section 751(a)(1) of the Act: (1) the cash-deposit rates for the reviewed companies will be the rates shown above; (2) for previously investigated or reviewed companies not listed above, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this or a previous 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 period for the manufacturer of the merchandise; (4) the cash-deposit rate for all other manufacturers or exporters will continue to be 2.80 percent, the all-others rate from the amended final determination of the LTFV investigation published on July 15, 2004. See *Notice of Amended Final Determination of*

*Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags From Thailand*, 69 FR 42419 (July 15, 2004).

These deposit requirements shall remain in effect until further notice.

**Notification Requirements**

This notice serves as a reminder to importers of their responsibility under 19 CFR 351.402(f) 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 Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties. See *id.*

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(a)(3). Timely notification of the 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. We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: January 7, 2009.

**Ronald K. Lorentzen**,  
*Acting Assistant Secretary for Import Administration.*

**Appendix**

- 1. Adverse Facts Available
  - 2. Unreported Sales by Poly Plast
- [FR Doc. E9-634 Filed 1-14-09; 8:45 am]  
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**DEPARTMENT OF COMMERCE**

**International Trade Administration**  
[C-580-818]

**Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Final Results of Countervailing Duty Administrative Review**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.  
**SUMMARY:** On September 9, 2008, the U.S. Department of Commerce ("the Department") published in the **Federal Register** its preliminary results of the administrative review of the countervailing duty ("CVD") order on corrosion-resistant carbon steel flat products ("CORE") from the Republic of Korea ("Korea") for the period of review