

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

A-549-821

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

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

**SUMMARY:** On September 11, 2006, the Department of Commerce published the preliminary results of the 2004/2005 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 17, 2007.

**FOR FURTHER INFORMATION CONTACT:** Thomas Schauer at (202) 482-0410 or Richard Rimlinger at (202) 482-4477, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

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

On September 11, 2006, the Department of Commerce (the Department) published *Polyethylene Retail Carrier Bags from Thailand: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 53405 (September 11, 2006) (*Preliminary Results*) in the **Federal Register**. The period of review is January 26, 2004, through July 31, 2005.

We invited parties to comment on the *Preliminary Results*. On October 11, 2006, 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 respondents CP Packaging Co., Ltd. (CP), King Pac Industrial Co., Ltd., Dpac Industrial Co., Ltd., Zippac Co., Ltd., and King Bag Co., Ltd. (collectively, King Pac), Sahachit Watana Plastic Ind. Co., Ltd. (Sahachit), and Universal Polybag Co., Ltd., Alpine Plastics, Inc., Advance Polybag Inc., and API Enterprises, Inc. (collectively, UPC/API). On October 19, 2006, the petitioners, CP, King Pac, and UPC/API

filed rebuttal briefs. At the request of certain parties, we held a hearing on October 25, 2006.

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

**Scope of Order**

The merchandise subject to this 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.

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

**Analysis of Comments Received**

All issues raised in the case and rebuttal briefs by parties to this review are addressed in the January 9, 2007, Issues and Decision Memorandum for the Antidumping Duty Administrative Review of Polyethylene Retail Carrier Bags from Thailand for the period of review January 26, 2004, through July 31, 2005 (Decision Memorandum), which is 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 B-099 of the main Department 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**

With respect to CP, in the *Preliminary Results*, we used, as adverse facts available for CP's inland-freight expense incurred on its U.S. sales, the highest expense which CP reported. For these final results of review, we used a simple average of the three highest per-kilogram freight expenses reported by other respondents in this review.

With respect to UPC/API, in the *Preliminary Results*, we adjusted the market prices of UPC's direct purchases from unaffiliated suppliers by UPC's affiliates' selling, general, and administrative expenses and then compared the transfer price UPC paid to its affiliated suppliers to these adjusted market prices. For these final results of review, we compared the transfer price UPC paid to its affiliated suppliers to the unadjusted market price of UPC's direct purchases from unaffiliated suppliers. We then valued the inputs UPC received from its affiliated reseller at the higher of market price or transfer price. In doing this, we corrected a ministerial error we made in the *Preliminary Results* by ensuring that the total value of HDPE resin is included in the numerator to derive the cost-of-manufacturing (COM) adjustment factor.

Further, in the *Preliminary Results*, we added additional costs to COM in error when disallowing UPC/API's claimed shutdown adjustment. For these final results of review, although we have not changed our position regarding UPC/API's claimed shutdown adjustment, we corrected the error by not adding back additional shutdown cost fields to COM. See Comment 5 of the Decision Memorandum concerning allegations of other ministerial errors.

**Cost of Production**

Pursuant to sections 773(b)(1) and (b)(2)(C)(i) of the Act, where less than 20 percent of sales of a given product were at prices less than the cost of production (COP), we did not disregard any below-cost sales of that product because we

determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the period of review were at prices less than the COP, we determined such sales to have been made in "substantial quantities." See sections 773(b)(1) and (b)(2)(C) of the Act. The sales were made within an extended period of time, in accordance with section 773(b)(2)(B) of the Act, because we examined below-cost sales occurring during the entire period of review. We compared the prices of below-cost sales to the weighted-average per-unit COP for the period of review to determine whether such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

We found that, for certain products, more than 20 percent of the comparison-market sales were at prices less than the COP and, thus, the below-cost sales were made within an extended period of time in substantial quantities by the following respondents: CP, UPC/API, Thai Plastic Bags Industries Company Ltd. and APEC Film Ltd. (collectively, TPBG), Apple Film Co., Ltd. (Apple), and Naraipak Co., Ltd., and Narai Packaging (Thailand) Ltd. (collectively, Naraipak). In addition, these sales were made at prices that did not provide for the recovery of costs within a reasonable period of time. Therefore, we excluded these sales and used the remaining sales, if any, as the basis for determining normal value in accordance with section 773(b)(1) of the Act.

#### Final Results of the Review

As a result of our review, we determine that the following percentage weighted-average dumping margins exist on polyethylene retail carrier bags from Thailand for the period January 26, 2004, through July 31, 2005:

Company	Margin (percent)
UPC/API .....	11.75
TPBG .....	1.41
Apple .....	16.43
CP Packaging .....	6.10
King Pac .....	122.88
Naraipak .....	1.69
Sahachit .....	6.34

#### Assessment Rates

The Department will determine and U.S. Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries, pursuant to 19 CFR 351.212(b). The Department calculated importer-specific duty

assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales for that importer. Where the assessment rate is above de minimis, we will instruct CBP to assess duties on all entries of subject merchandise by that importer. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of 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 period of review produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise it 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.

#### a. Export Price

With respect to export-price sales, 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).

#### b. Constructed Export Price

For constructed export-price sales, we divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for each importer. We will direct CBP to assess the resulting percentage margin against the entered customs values for the subject merchandise on each of that importer's entries during the review period. See 19 CFR 351.212(b)(1).

#### 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 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 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 publication of the final results of the next administrative review.

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.

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 9, 2007.

**David M. Spooner,**

*Assistant Secretary for Import Administration.*

#### Appendix

##### Comments and Responses

1. CP - Direct-Material Costs
2. CP - Inland-Freight Expenses
3. UPC/API - Cost Issues

A. Quarterly Costs vs. Period Costs  
 B. Shutdown Costs  
 C. Major-Input Purchases  
 4. UPC/API - Contract Sales  
 5. UPC/API - Offsetting of Negative Margins  
 6. UPC/API - Ministerial Errors  
 7. King Pac - Adverse Facts Available  
 8. King Pac - Application of Provisional-Measures Cap  
 9. Sahachit - G&A Calculation  
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 BILLING CODE 3510-DS-S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Proposed Information Collection; Comment Request; Atlantic Sea Scallops Amendment 10 Data Collection

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA).  
**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before March 19, 2007.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Ryan Silva, 978-281-9326 or [Ryan.Silva@noaa.gov](mailto:Ryan.Silva@noaa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

The National Marine Fisheries Service (NMFS) Northeast Region manages the Atlantic sea scallop (scallop) fishery of the Exclusive Economic Zone (EEZ) off the East Coast under the Atlantic Sea Scallop Fishery Management Plan (FMP). The regulations implementing the FMP are at 50 CFR part 648. This collection, Amendment 10, was merged with Framework Adjustments 14, 15, 16, 17 and 18 of the FMP.

Amendment 10 included new access area broken trip notification

requirements and access area trip exchange procedures for limited access vessels participating in the Area Access Program.

Framework Adjustments 14 and 15 required occasional scallop vessels that participate in the Area Access Program to install a vessel monitoring system (VMS) unit.

Framework Adjustment 16 required the installation of VMS units on general category scallop vessels participating in the Area Access Program. These vessels are required to declare an access area trip prior to departure and to report daily catch information while on an access area trip.

Framework Adjustment 17 extended the VMS reporting requirements to include the general category vessels that possess or land more than 40 lbs. of scallop meats. The VMS is required to be fully automatic and operational at all times, unless exempted under the power-down exemption. These vessels are required to declare a trip prior to departure and to report daily catch information while on an access area trip.

Framework Adjustment 18 required vessels taking broken trip compensation trips to enter a unique trip identification code into their VMS units prior to departure.

##### II. Method of Collection

VMS transmissions, paper applications, telephone calls and/or E-mail are required from participants. Facsimile transmission of paper forms, mail, E-mail, and/or express mail are the methods of information submittal.

##### III. Data

*OMB Number:* 0648-0491.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 1,296.

*Estimated Total Responses:* 235,998.

*Estimated Time Per Response:* 2 minutes.

*Estimated Total Hours:* 7,837.

*Estimated Total Annual Cost to Public:* \$1,242,440.

##### IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and

clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: January 11, 2007.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

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## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

#### Proposed Information Collection; Comment Request

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Notice.

**SUMMARY:** The Corporation for National and Community Service (hereinafter the "Corporation"), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments concerning its proposed renewal of its Senior Corps Project Progress Report (PPR)—reference OMB Control Number 3045-0033, with an expiration date of August 31, 2007. In conjunction with the PPR renewal, the Corporation proposes to make several modifications:

- Streamline the "Data Demographic" section of the collection instrument to reduce frequency and eliminate redundancy; and
- Modify the PPR datasheet frequency schedule from biennial to annual.

Copies of the information collection requests can be obtained by contacting