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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-886]

Polyethylene Retail Carrier Bags from the People's Republic of China: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that imports of unfinished polyethylene retail carrier bags (PRCBs) from the People's Republic of China (PRC) are circumventing the antidumping duty order on PRCBs from the PRC.¹

DATES: EFFECTIVE DATE: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER.]

FOR FURTHER INFORMATION CONTACT: Thomas Schauer or Minoo Hatten, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-0410, and (202)482-1690, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Antidumping Duty Order

The merchandise covered by the *Order* is PRCBs. PRCBs subject to the order are currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) at subheading 3923.21.0085. The HTSUS subheading is provided for convenience and customs purposes. A full description of the scope of the *Order* is contained in the memorandum from

¹ See *Antidumping Duty Order: Polyethylene Retail Carrier Bags From the People's Republic of China*, 69 FR 48201 (August 9, 2004) (*Order*).

Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, “Preliminary Analysis Memorandum for the Circumvention Inquiry of the Antidumping Duty Order on Polyethylene Retail Carrier Bags from the People’s Republic of China” dated concurrently with this notice (Preliminary Decision Memorandum), which is hereby adopted by this notice. The written description is dispositive. The Preliminary Decision Memorandum is a public document and is on file electronically via the Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at <http://www.trade.gov/enforcement/>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Circumvention Inquiry

This anticircumvention inquiry covers merchandise from the PRC that appears to be an unfinished PRCB which is sealed on all four sides, cut to length, and which appears ready to undergo the final step in the production process, *i.e.*, to use a die press to stamp out the opening and create the handles of a finished PRCB. The unfinished PRCBs subject to this inquiry may or may not have printing and may be of different dimensions as long as they otherwise meet the description of the scope of the order.

Methodology

The Department has made this preliminary finding of circumvention in accordance with section 781(a) of the Tariff Act of 1930, as amended (Act) and 19 CFR 351.225(g). We have

relied on the facts available with respect to certain aspects of our determination in accordance with section 776 of the Act because, apart from the petitioners, no parties came forward or submitted argument or information. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

Preliminary Determination

As detailed in the Preliminary Decision Memorandum, we preliminarily determine, pursuant to section 781(a) of the Act, that imports of unfinished PRCBs from the PRC are circumventing the *Order*.

Suspension of Liquidation

In accordance with 19 CFR 351.225(l)(2), we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of merchandise subject to this inquiry that is entered, or withdrawn from warehouse, for consumption on or after May 14, 2013, the date of publication of the initiation of this inquiry.² We will also instruct CBP to require a cash deposit of estimated duties at the applicable rates for each unliquidated entry of the product entered, or withdrawn from warehouse, for consumption on or after May 14, 2013, in accordance with 19 CFR 351.225(l)(2).

Invitation to Interested Parties to Participate

No responding interested party such as a foreign exporter or producer or U.S. importer has, to date, responded to the invitation stated in the *Initiation Notice* to participate in this anticircumvention inquiry.³ In the interest of affording every possible opportunity to interested parties to participate, the Department continues to invite all interested parties to identify themselves and to provide information and argument that may inform the Department's

² *See Polyethylene Retail Carrier Bags From the People's Republic of China: Initiation of Anticircumvention Inquiry on Antidumping Duty Order*, 78 FR 28194 (May 14, 2013) (*Initiation Notice*).

³ *Id.*

determination. Any such interested party should enter an appearance pursuant to 19 CFR 351.103(d)(1) indicating their willingness to participate in this proceeding. Because of the relatively late stage of this proceeding, we require that any interested party submit its entry of appearance no later than 45 days after the date of publication of this notice.

Public Comment

Pursuant to 19 CFR 351.309(c) and (d), interested parties may submit case and rebuttal briefs. As described in the “Invitation to Interested Parties to Participate” section, above, we are re-iterating our solicitation to interested parties to participate in this anticircumvention inquiry. If any interested parties come forward within 45 days after the date of publication of this notice, we will issue the briefing schedule and requirements for requesting a hearing at a later date.

If no interested party comes forward within 45 days after the date of publication of this notice, then case briefs will be due not later than 50 days after the date of publication of this notice. Pursuant to 19 CFR 351.309(d), rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs. Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument:

(1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Additionally, if no interested party comes forward within 45 days after the date of publication of this notice, then pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically *via* IA ACCESS. An electronically filed document must be received successfully in its entirety by the Department’s electronic records system, IA ACCESS, by 5 p.m. Eastern Standard Time within 50 days after the date of publication of this notice. Requests should contain: (1) The party’s name, address

and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. We intend to issue our final determination of circumvention by March 3, 2014.

Notification of the International Trade Commission

Pursuant to section 781(e) of the Act, we will notify the International Trade Commission of the proposed inclusion of unfinished PRCBs in the *Order*.

This preliminary determination of circumvention is in accordance with section 781(a) of the Act and 19 CFR 351.225.

Dated: December 11, 2013.

Paul Piquado,
Assistant Secretary
for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

1. Background
2. Scope of the Order
4. Merchandise Subject to the Minor Alterations Antidumping Circumvention Inquiry
5. Statutory and Regulatory Framework
6. Allegations of Circumvention as Identified in the Initiation of Inquiry
7. Facts Available
8. Analysis
 - A. Merchandise of the Same Class or Kind
 - B. Completion of Merchandise in the United States
 - C. Minor or Insignificant Process
 - D. Value of the Parts or Components Produced in the Foreign Country Is a Significant Portion of the Total Value of the Merchandise
 - E. Factors to Consider in Determining Whether Action Is Necessary
 - Pattern of Trade, Including Sourcing Patterns
 - Affiliation
 - Subsequent Import Volume
9. Preliminary Findings

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