



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-886]

Polyethylene Retail Carrier Bags from the People's Republic of China: Preliminary Determination of No Shipments and Rescission of Review in Part; 2021-2022

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

SUMMARY: The U.S. Department of Commerce (Commerce) preliminarily finds that Dongguan Nozawa Plastics Products Co., Ltd. and United Power Packaging, Ltd. (collectively, Nozawa) had no shipments of polyethylene retail carrier bags (PRCBs) from the People's Republic of China (China) during the period of review (POR), August 1, 2021, through July 31, 2022. In addition, Commerce is rescinding this administrative review, in part, for Crown Polyethylene Products (International) Ltd. (Crown), for which the review request was withdrawn. We invite interested parties to comment on these preliminary results of review.

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

FOR FURTHER INFORMATION CONTACT: Christopher Williams, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5166.

SUPPLEMENTARY INFORMATION:

Background

On August 9, 2004, Commerce published in the *Federal Register* the antidumping duty order on PRCBs from China.¹ On August 2, 2022, Commerce published in the *Federal Register*

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

a notice of opportunity to request an administrative review of the *Order*.² On August 31, 2022, the petitioners³ timely requested an administrative review of the *Order* with respect to Nozawa and Crown.⁴ Commerce received no other requests for an administrative review of the *Order*. On October 11, 2022, pursuant to section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.221(c)(1)(i), Commerce initiated this administrative review.⁵ On November 29, 2022, the petitioners timely withdrew their request for an administrative review of Crown.⁶

Scope of the *Order*

The products covered by the *Order* are 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

² See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 87 FR 47187 (August 2, 2022).

³ The petitioners are the Polyethylene Retail Carrier Bag Committee and its individual members, Hilex Poly Co., LLC and Superbag Corporation.

⁴ See Petitioners' Letter, "Polyethylene Retail Carrier Bags from the People's Republic of China: Request for Administrative Review," dated August 31, 2022.

⁵ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 87 FR 61278 (October 11, 2022).

⁶ See Petitioners' Letter, "Polyethylene Retail Carrier Bags from the People's Republic of China: Partial Withdrawal of Request for Administrative Review," dated November 29, 2022.

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 3923.21.0090 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, our written description of the scope of the *Order* is dispositive.

Rescission of Administrative Review, in Part

Pursuant to 19 CFR 351.213(d)(1), Commerce will rescind an administrative review, in whole or in part, if the party that requested a review withdraws its request within 90 days of the date of publication of the notice of initiation. Because the petitioners timely withdrew their review request for Crown, and no other party requested an administrative review of Crown, we are rescinding the administrative review of Crown, pursuant to 19 CFR 351.213(d)(1).

Preliminary Determination of No Shipments

On November 9, 2022, Nozawa timely filed a letter certifying that it had no U.S. exports, sales, or entries of subject merchandise to the United States during the POR.⁷ We requested that U.S. Customs and Border Protection (CBP) report any information contradicting Nozawa's claim of no shipments⁸ and in response to our query, CBP confirmed Nozawa's claim of no shipments of subject merchandise during the POR.⁹ Therefore, we preliminarily determine that Nozawa had no shipments of subject merchandise to the United States during the POR. Consistent with

⁷ See Nozawa's Letter, "Polyethylene Retail Carrier Bags from the People's Republic of China: No Shipment Certification," dated November 9, 2022.

⁸ See CBP message number 2334401 dated November 28, 2022, available at <https://aceservices.cbp.dhs.gov/adcvdweb/>.

⁹ See Memorandum, "Polyethylene Retail Carrier Bags from the People's Republic of China; No Shipment Inquiry for Dongguan Nozawa Plastics Products Co., Ltd. and United Power Packaging, Ltd. during the Period 08/01/2021 through 07/31/2022," dated January 30, 2023.

Commerce's practice, we will complete the review of Nozawa and issue appropriate instructions to CBP based on the final results of review.¹⁰

China-Wide Entity

Commerce's policy regarding conditional review of the China-wide entity applies to this administrative review.¹¹ Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the entity. Because no party requested a review of the China-wide entity, and because we did not self-initiate a review, the China-wide entity rate (*i.e.*, 77.57 percent)¹² is not subject to change as a result of this review.

Disclosure and Public Comment

Normally, Commerce discloses to interested parties the calculations performed in connection with the preliminary results within five days of the public announcement, or if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). However, because Commerce did not calculate a weighted-average dumping margin for any company in this review, nor for the China-wide entity, there are no calculations to disclose.

Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs, filed electronically via Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), no later than 30 days after the date of publication of this notice. ACCESS is available to registered users at <https://access.trade.gov>. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than seven days

¹⁰ See, e.g., *Certain Frozen Warmwater Shrimp from Thailand; Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Review, Preliminary Determination of No Shipments; 2012-2013*, 79 FR 15951, 15952 (March 24, 2014), unchanged in *Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Partial Rescission of Review; 2012-2013*, 79 FR 51306, 51307 (August 28, 2014).

¹¹ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

¹² See *Order*, 69 FR at 48203.

after the date for filing case briefs.¹³ Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.¹⁴ Parties submitting case or rebuttal briefs 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.¹⁵

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via ACCESS. 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 or rebuttal briefs. An electronically filed hearing request must be received successfully in its entirety by Commerce's electronic records system, ACCESS, by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.

Unless extended, Commerce intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Assessment Rates

Upon issuance of the final results of this review, Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.¹⁶ Because Commerce is rescinding this administrative review with respect to Crown, Commerce will instruct CBP to assess antidumping duties on all appropriate entries of PRCBs from China from Crown during the POR at rates equal to the cash deposit rate of estimated antidumping duties

¹³ See 19 CFR 351.309(d)(1); *see also Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006, 17007 (March 26, 2020) (“To provide adequate time for release of case briefs via ACCESS, {Enforcement and Compliance} intends to schedule the due date for all rebuttal briefs to be 7 days after case briefs are filed (while these modifications remain in effect).”).

¹⁴ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

¹⁵ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁶ See 19 CFR 351.212(b)(1).

required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i).

With respect to Nozawa if we continue to find that Nozawa had no shipments of subject merchandise in the final results, then following the issuance of the final results of review, Commerce will instruct CBP to liquidate any suspended entries that entered under Nozawa's case number (*i.e.*, at the rate applicable to Nozawa) at the China-wide rate.¹⁷

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the *Federal Register*. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.*, within 90 days of publication).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for shipments of the subject merchandise from China 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) for previously investigated or reviewed Chinese and non-Chinese exporters that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (2) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the China-wide entity (*i.e.*, 77.57 percent); and (3) for all non-Chinese exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Chinese exporter(s) that supplied that non-Chinese exporter (or, if unidentified, that of the China-wide entity). These deposit requirements, when imposed, shall remain in effect until further notice.

¹⁷ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694, 65695 (October 24, 2011).

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 POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

Commerce is issuing and publishing these preliminary results in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h)(1) and 351.221(b)(4).

Dated: February 10, 2023.

Lisa W. Wang,
Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2023-03300 Filed: 2/15/2023 8:45 am; Publication Date: 2/16/2023]