
DEPARTMENT OF COMMERCE**International Trade Administration**

[A-560-822, A-583-843, A-552-804]

Polyethylene Retail Carrier Bags From Indonesia, Taiwan, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations

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

EFFECTIVE DATE: April 27, 2009.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:**The Petitions**

On March 31, 2009, the Department of Commerce (the Department) received petitions concerning imports of polyethylene retail carrier bags (PRCBs) from Indonesia, Taiwan, and the Socialist Republic of Vietnam (Vietnam) filed in proper form by Hilex Poly Co., LLC, and Superbag Corporation (the petitioners). See the Petition for the Imposition of Antidumping and Countervailing Duties on Polyethylene Retail Carrier Bags from Indonesia, Taiwan, and the Socialist Republic of Vietnam submitted on March 31, 2009 (the Petitions). On April 3, 2009, the Department issued a request for additional information and clarification of certain areas of the Petitions. Based on the Department's requests, the petitioners filed additional information on April 8, 10, 15, and 16, 2009

(hereinafter, Supplement to the Petitions, dated respectively). The period of investigation (POI) for Indonesia and Taiwan is January 1, 2008, through December 31, 2008. The POI for Vietnam is July 1, 2008, through December 31, 2008. See 19 CFR 351.204(b)(1).

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that imports of PRCBs from Indonesia, Taiwan, and Vietnam are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that the petitioners filed these Petitions on behalf of the domestic industry because the petitioners are interested parties as defined in section 771(9)(C) of the Act and have demonstrated sufficient industry support with respect to the antidumping duty investigations that the petitioners are requesting that the Department initiate (see "Determination of Industry Support for the Petitions" section below).

Scope of Investigations

The merchandise covered by these investigations is PRCBs. See Attachment I to this notice for a complete description of the merchandise covered by these investigations.

Comments on Scope of Investigations

During our review of the Petitions, we discussed the scope with the petitioners to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments within 20 calendar days of the date of publication of this notice in the **Federal Register**. Comments should be addressed to Import Administration's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

Comments on Product Characteristics for Antidumping Duty Questionnaires

We are requesting comments from interested parties regarding the appropriate physical characteristics of PRCBs to be reported in response to our antidumping questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report more accurately the relevant factors and costs of production as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as 1) general product characteristics and 2) the product-comparison criteria. We recognize that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products. In other words, while there may be some physical product characteristics used by manufacturers to describe PRCBs, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the antidumping duty questionnaires, we must receive comments at the above-referenced address by May 11, 2009. Additionally, we must receive rebuttal comments by May 21, 2009.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for (i) at least 25 percent of the total production of the domestic like product and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D)

of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method if there is a large number of producers in the industry.

Section 771(4)(A) of the Act defines the "industry" as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The U.S. International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. See *Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), affirmed 865 F.2d 240 (Fed. Cir. 1989), cert. denied 492 U.S. 919 (1989).

Section 771(10) of the Act defines the domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic-like-product analysis begins is "the article subject to an investigation" (i.e., the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioners do not offer a definition of domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that PRCBs constitute a single domestic like product and we have analyzed industry support in terms of that domestic like product. For a discussion of the domestic-like-product analysis in this case, see Antidumping Investigation Initiation

Checklist: PRCBs from Indonesia (Indonesia Initiation Checklist) at Attachment II (Analysis of Industry Support), Antidumping Investigation Initiation Checklist: PRCBs from Taiwan (Taiwan Initiation Checklist) at Attachment II (Analysis of Industry Support), and Antidumping Investigation Initiation Checklist: PRCBs from Vietnam (Vietnam Initiation Checklist) at Attachment II (Analysis of Industry Support) which are on file in the Central Records Unit (CRU), Room 1117 of the main Department of Commerce building.

With regard to section 732(c)(4)(A) of the Act, in determining whether the petitioners have standing (i.e., the domestic workers and producer supporting the Petitions account for (1) at least 25 percent of the total production of the domestic like product and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions), we considered the industry-support data contained in the Petitions with reference to the domestic like product as defined in the "Scope of Investigations" section above and Attachment I. To establish industry support, the petitioners provided their shipments of the domestic like product for the year 2008 and compared them to an estimate of shipments of the domestic like product for the entire industry. See Volume II of the Petitions at Exhibit 3 and Supplement to the Petitions dated April 10, 2009. The petitioners argue that U.S. shipments of PRCBs are a reasonable proxy for U.S. production of PRCBs as most PRCBs are produced to order for specific retail customers and that inventories that are maintained are typically small. See Volume II of the Petitions at Exhibit 3. Based on the fact that total industry-production data for the domestic like product for 2008 are not reasonably available and that the petitioners have established that shipments are a reasonable proxy for production data, we have relied upon shipment data for purposes of measuring industry support. For further discussion see Indonesia Initiation Checklist, Taiwan Initiation Checklist, and Vietnam Initiation Checklist at Attachment II (Analysis of Industry Support).

On April 15, 2009, the Government of Vietnam (GOV), an interested party to this proceeding as defined in section 771(9)(B) of the Act, provided the Department with a written statement to accompany its remarks during consultations with the Department regarding the countervailing duty (CVD) petition involving imports of PRCBs

from Vietnam. The first issue raised in this statement addresses the GOV's concerns that the petitioners may not meet the required threshold for standing. Because this information pertains to industry support and, thus, is an acceptable form of pre-initiation communication under section 732(c)(4)(E) of the Act, the Department placed the GOV's written statement on the record of all three antidumping petitions. See Memorandum to the File from Mark Hoadley, Program Manager through Barbara E. Tillman, Director AD/CVD Operations, Office 6: "Antidumping Petitions on Polyethylene Retail Carrier Bags (PRCBs) from the Socialist Republic of Vietnam (Vietnam), Indonesia, and Taiwan: Information Provided by the Government of Vietnam (GOV) Regarding Industry Support," dated April 16, 2009. Also, on April 17, 2009, we received submissions on behalf of Vietnamese producers of PRCBs, interested parties to this proceeding as defined in section 771(9)(A) of the Act, questioning the industry-support calculation. See Indonesia Initiation Checklist, Taiwan Initiation Checklist, and Vietnam Initiation Checklist at Attachment II (Analysis of Industry Support). On April 20, 2009, the petitioners filed their reply to these challenges. For further discussion of these submissions see Indonesia Initiation Checklist, Taiwan Initiation Checklist, and Vietnam Initiation Checklist at Attachment II (Analysis of Industry Support).

The Department's review of the data provided in the Petitions, supplemental submissions, other information on the record, and other information readily available to the Department indicates that the petitioners have established industry support. Because the Petitions establish support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product, the Department is not required to take further action in order to evaluate industry support (e.g., polling). See section 732(c)(4)(D) of the Act and Indonesia Initiation Checklist, Taiwan Initiation Checklist, and Vietnam Initiation Checklist at Attachment II. Nonetheless, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product. See Indonesia Initiation Checklist, Taiwan Initiation Checklist, and Vietnam Initiation

Checklist at Attachment II. Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions. Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act. See Indonesia Initiation Checklist, Taiwan Initiation Checklist, and Vietnam Initiation Checklist at Attachment II.

The Department finds that the petitioners filed the Petitions on behalf of the domestic industry in accordance with section 732(c)(4)(A) of the Act. The petitioners are an interested party as defined in section 771(9)(C) of the Act and they have demonstrated sufficient industry support with respect to the antidumping investigations that they are requesting that the Department initiate. See Indonesia Initiation Checklist, Taiwan Initiation Checklist, and Vietnam Initiation Checklist at Attachment II.

Allegations and Evidence of Material Injury and Causation

The petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). In addition, the petitioners allege that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.

The petitioners contend that the industry's injured condition is illustrated by reduced market share, underselling and price depressing and suppressing effects, lost sales and revenue, reduced production and capacity utilization, reduced shipments, reduced employment, and an overall decline in financial performance. We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. See Indonesia Initiation Checklist, Taiwan Initiation Checklist, and Vietnam Initiation Checklist at Attachment III (Analysis of Allegations and Evidence of Material Injury and Causation for the Petition).

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate these investigations of imports of PRCBs from Indonesia, Taiwan, and Vietnam. The sources of data for the deductions and adjustments relating to the U.S. price, constructed value (CV) (for Indonesia and Taiwan), and the factors of production (for Vietnam) are also discussed in the country-specific initiation checklists. See Indonesia Initiation Checklist, Taiwan Initiation Checklist, and Vietnam Initiation Checklist. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we will reexamine the information and revise the margin calculations, if appropriate.

Export Price

Indonesia, Taiwan, and Vietnam

The petitioners calculated three versions of export price (EP) for each country using the average per-unit customs values (AUV) of imports of subject merchandise from Indonesia, Taiwan, and Vietnam during the country-specific POI derived from U.S. Census Bureau import statistics. See Volume I of the Petitions at pages 22–26, 33, 35, 41, Volume II of the Petitions at Exhibit 13, Supplement to the Petitions, dated April 8, 2009, at pages 7–11 and Exhibits CI–6, CI–9, CI–11, CI–14, and Supplement to the Petitions, dated April 15, 2009, at pages 2–7 and Exhibit 1. The petitioners used a single reporting number of the Harmonized Tariff Schedule of the United States (HTSUS) under which subject merchandise is imported (3923.21.0085). The first method of calculating EP uses total import quantities and values for the respective POI. The petitioners calculated EP under this scenario by weight-averaging the per-unit AUVs during the country-specific POI using the entry-specific gross packed shipment weight in kilograms. *Id.*

The second method of calculating EP relies on the lowest monthly port-specific per-unit AUVs during the country-specific POI. The petitioners calculated EP under this method by simple-averaging the monthly per-unit AUVs during the POI. *Id.* The petitioners claim that the second method of estimating EP is likely to produce a more representative estimate of actual margins of dumping. The petitioners assert that it is reasonable to assume that the lowest monthly port-

specific per-unit AUVs appear to represent sales of t-shirt bags (the type of product which the ITC has acknowledged is at the low end of PRCBs price and cost continuum (see footnote 9 of the Supplement to the Petitions, dated April 15, 2009)) which are the same type of PRCBs on which the petitioners based their cost model in calculating normal value. *Id.* See Supplement to the Petitions, dated April 8, 2009, at pages 9–11 and Exhibit CI–6. At the Department’s request to substantiate their claims, the petitioners used Automated Manifest System data to determine which particular imports were of t-shirt bags. This resulted in complete information from manifests for one month of the POI for Indonesia and Taiwan, partial information for certain other POI months for Indonesia and Taiwan, and partial information for one month of the POI for Vietnam. As a result of this information, the petitioners provided a third method of calculating EPs for all countries using the lowest port-specific per-unit AUVs for a single month of the POI for which the petitioners substantiated their assertion (fully for Indonesia and Taiwan and partially for Vietnam) that the corresponding shipments are of t-shirt bags. See Supplement to the Petitions, dated April 15, 2009, at pages 2 through 7 and Exhibits 1 and 3.

We have relied on the petitioners’ first and third methods of calculating EPs. We did not rely, however, on the petitioners’ second method of calculating EPs because the petitioners did not substantiate their assertion with respect to all POI months for all three countries that the lowest monthly port-specific per-unit AUVs were shipments of t-shirt bags.

Because the petitioners’ derivation of the per-unit AUVs for both EP-calculation scenarios relied on the gross-weight basis (*i.e.*, packed weight of subject merchandise), the petitioners converted the per-unit AUVs for both EP-calculation scenarios from the gross-weight basis to net-weight basis using an adjustment which estimates the weight of packing materials required to pack one metric ton of subject merchandise. See Volume I of the Petitions at pages 22–26, 33, 35, 41, Volume II of the Petitions at Exhibit 13, and Supplement to the Petitions, dated April 15, 2009, at Exhibit 3. The petitioners made an adjustment for foreign brokerage and handling expenses and foreign inland-freight expenses because the AUVs are based on free-on-board (FOB) foreign port prices. See Indonesia Initiation Checklist, Taiwan Initiation Checklist, Vietnam Initiation Checklist, and “Fair-

Value Comparisons” section below for EP-to-NV margins.

NV Based on CV

With respect to NV, the petitioners state that neither home-market prices nor third-country POI prices of PRCBs produced in Indonesia or Taiwan were reasonably available. According to the petitioners, they were unsuccessful in obtaining Indonesian or Taiwanese POI pricing information despite their best efforts. See Volume I of the Petitions at pages 26–27. Further, the petitioners claim that they were unable to base NV on publicly available information covering Indonesian or Taiwanese third-country export prices because the underlying statistics for Indonesian or Taiwanese HTS numbers cover a far broader group of products than those covered by the scope of the petitions (*i.e.*, HTSUS number 3923.21.0085). The petitioners claim that the World Trade Atlas (WTA) data indicate that there is no additional disaggregation beyond the six-digit HTS level (*i.e.*, 3923.21) allowable with either Indonesian or Taiwanese tariff classification numbers. *Id.* Therefore, the petitioners based NV on CV.

Pursuant to section 773(e) of the Act, CV consists of the cost of manufacturing (COM) selling, general, and administrative (SG&A) expenses, packing expenses, and profit. In calculating COM and packing, the petitioners based the quantity of each of the inputs used to manufacture and pack PRCBs in Indonesia or Taiwan based on its own production experience during the POI. The petitioners claim that the actual usage rates of the foreign manufacturers of PRCBs are not reasonably attainable because such information is closely guarded by foreign producers and is not otherwise publicly available. The petitioners claim that the major foreign exporters of PRCBs use production machinery, raw-material inputs, and production processes similar to those of U.S. producers. See Volume I of the Petitions at pages 27–30 and Volume II of the Petitions at Exhibits 20, 21, 23, and 24.

The petitioners then multiplied the usage quantities of the inputs used to manufacture and pack PRCBs by the Indonesian or Taiwanese values based on publicly available data or, where appropriate, data from a surrogate foreign country.¹ See Volume I of the Petitions at pages 30, 32, and 34 and

¹ With respect to masterbatch colorants, because Indonesian import statistics do not report any imports during the POI under the applicable HTS number for this product, the petitioners valued this input using the simple average of Taiwanese and Indian average import values during the POI.

Volume II of the Petitions at Exhibits 20, 21, 24, 25, and 26.

Raw materials (*e.g.*, polyethylene resin) are the most significant inputs used in the production of PRCBs. The petitioners determined the consumption of all raw materials and packing materials based on the quantities they used to produce a metric ton of PRCBs (*i.e.*, t-shirt bags).

Indonesia

The petitioners valued all raw materials and packing materials using the Indonesian import statistics as reflected in the WTA data for the most recent twelve-month period available, December 2007 through November 2008. The petitioners excluded from these import statistics imports from countries previously determined by the Department to be non-market-economy (NME) countries and from Indonesia, the Republic of Korea, and Thailand because the Department has previously excluded prices from these countries because they maintain broadly available, non-industry-specific export subsidies. Because Indonesian import statistics report import values in U.S. dollars, the petitioners did not make currency conversions. The petitioners did not adjust the import values using the producer-price inflation index (PPI) for the United States to make it contemporaneous with the POI. See Volume I of the Petitions at pages 30–32 and Volume II of the Petitions at Exhibits 20 and 24.

The petitioners determined labor costs using the labor consumption in hours derived from their own experience. The petitioners valued labor inputs using Indonesian wage rates obtained from the International Labour Organization’s “Laborsta” database at <http://laborsta.ilo.org>. The petitioners adjusted Indonesian labor rates to make them contemporaneous with the POI using Indonesian Wholesale Price Indices as published by International Financial Statistics of the International Monetary Fund (IFS). The petitioners converted the Indonesian labor rates into U.S. dollars using the Department’s POI exchange rates at <http://ia.ita.doc.gov/exchange/index.html>. See Volume I of the Petitions at page 32 and Volume II of the Petitions at Exhibits 20 and 25.

The petitioners determined electricity costs using the electricity consumption in kilowatt hours derived from their own experience. The petitioners valued electricity using the Indonesian electricity rate for the industry reported by the International Energy Agency. Because Indonesian electricity rates are reported in U.S. dollars, the petitioners

did not make currency conversions. The petitioners adjusted Indonesian electricity rate to make it contemporaneous with the POI using the PPI for the United States as published by IFS. See Volume I of the Petitions at page 32 and Volume II of the Petitions at Exhibits 20 and 26.

To calculate factory overhead, SG&A, financial expenses and a profit rate, the petitioners relied on financial statements of an Indonesian producer of plastic packaging products, PT. Dynaplast Tbk., for the period most contemporaneous with the POI for which the petitioners were able to obtain such information. See Volume I of the Petitions at pages 32–33, Volume II of the Petitions at Exhibits 20 and 27, and Supplement to the Petitions, dated April 8, 2009, at Exhibit CI–9. See also Indonesia Initiation Checklist.

Taiwan

The petitioners valued all raw materials and packing materials using the Taiwanese import statistics as reflected in the WTA data for the POI. The petitioners excluded from these import statistics imports from countries previously determined by the Department to be NME countries and from Indonesia, the Republic of Korea, and Thailand because the Department has previously excluded prices from these countries because they maintain broadly available, non–industry-specific export subsidies. Because Taiwanese import statistics report import values in Taiwanese dollars, the petitioners converted the import values into U.S. dollars using the Department's POI exchange rates. See Volume I of the Petitions at pages 30–31 and 34 and Volume II of the Petitions at Exhibits 21 and 24.

The petitioners determined labor costs using the labor consumption in hours derived from their own experience. The petitioners valued labor inputs using Taiwanese wage rates obtained from the International Labour Organization's "Laborsta" database at <http://laborsta.ilo.org>. The petitioners adjusted Taiwanese labor rates to make them contemporaneous with the POI using Taiwanese Wholesale Price Indices as published by IFS. The petitioners converted the Taiwanese labor rates into U.S. dollars using the Department's POI exchange rates. See Volume I of the Petitions at page 34 and Volume II of the Petitions at Exhibits 21 and 25.

The petitioners determined electricity costs using the electricity consumption in kilowatt hours derived from their own experience. The petitioners valued electricity using the Taiwanese

electricity rate for the industry reported by the International Energy Agency. Because Taiwanese electricity rates are reported in U.S. dollars, the petitioners did not make currency conversions. The petitioners adjusted the electricity rate for Taiwan to make it contemporaneous with the POI using the PPI for the United States as published by the IFS. See Volume I of the Petitions at page 34 and Volume II of the Petitions at Exhibits 21 and 26.

To calculate factory overhead, SG&A, and a profit rate, the petitioners relied on financial statements of a Taiwanese producer of plastic packaging products, Formosa Taffeta Corporation, Ltd. (Formosa Taffeta), for the period most contemporaneous with the POI for which the petitioners were able to obtain such information. For the calculation of the financial expense, the petitioners relied on the financial statements of Formosa Taffeta's parent company, Formosa Plastics Corporation. See Volume II of the Petitions at Exhibit 21 and Supplement to the Petitions, dated April 8, 2009, at Exhibits CI–11, CI–12, and CI–13. We revised the petitioners' calculation of the SG&A rate to exclude foreign–exchange gains and interest expenses that were also accounted for in the financial–expense rate as well as other income and expenses related to investments. We then revised the petitioners' profit calculation to account for the revised SG&A expenses. See Taiwan Initiation Checklist.

Vietnam

The petitioners state that Vietnam is an NME country and no determination to the contrary has been made by the Department. See Volume I of the Petitions at 36. The petitioners state that, in each of the three antidumping duty investigations the Department has conducted on imports from Vietnam, the Department determined that Vietnam is an NME country, citing *Uncovered Innerspring Units from the Socialist Republic of Vietnam: Notice of Final Determination of Sales at Less Than Fair Value*, 73 FR 62479 (October 21, 2008), *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004), and *Notice of Final Antidumping Duty Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 37116 (June 23, 2003).

In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in

effect until revoked by the Department. The presumption of NME status for Vietnam has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Accordingly, the NV of the product is appropriately based on factors of production valued in a surrogate market–economy country in accordance with section 773(c) of the Act. In the course of this investigation, all parties, including the public, will have the opportunity to provide relevant information related to the issues of Vietnam's NME status and the granting of separate rates to individual exporters.

Citing section 773(c)(4) of the Act, the petitioners contend that India is the appropriate surrogate country for Vietnam because 1) it is at a level of economic development comparable to that of Vietnam, 2) it is a significant producer of PRCBs, and 3) the Department has previously found India to be a ready source for reliable surrogate values for Vietnam proceedings. See Volume I of the Petitions at 36–39. Based on the information provided by the petitioners, we believe that it is appropriate to use India as a surrogate country for initiation purposes. After initiation of the investigation, interested parties will have the opportunity to submit comments regarding surrogate–country selection and, pursuant to 19 CFR 351.301(c)(3)(i), will be provided an opportunity to submit publicly available information to value factors of production within 40 days after the date of publication of the preliminary determination.

The petitioners calculated NV and dumping margins for the U.S. price, discussed above, using the Department's NME methodology as required by 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. The petitioners calculated NV based on their own consumption rates for producing PRCBs in 2008. See Vietnam Initiation Checklist. The petitioners state that their production experience is representative of the production process used in Vietnam because all of the material inputs and processing are unlikely to be materially different for a Vietnam producer of PRCBs. See Volume I of the Petitions at page 28.

The petitioners valued the factors of production based on reasonably available, public surrogate–country data, including India statistics from the WTA and the Central Electric Authority of the Government of India. See Vietnam Initiation Checklist. Where the petitioners were unable to find input prices contemporaneous with the POI, the petitioners adjusted for inflation

using the Indian Wholesale Price Index from the IFS. See Supplement to the Petition, dated April 8, 2009, at page 21. In addition, the petitioners made currency conversions, where necessary, based on the POI–average rupee/U.S. dollar exchange rate, as reported on the Department’s website. See Supplement to the Petitions, dated April 15, 2009, at pages 9–12 and Exhibit 7. The petitioners determined labor costs using the labor consumption, in hours, derived from their own experience. See Volume II of the Petitions at Exhibit 23. The labor cost was then determined using the Department’s NME Wage Rate for Vietnam at <http://ia.ita.doc.gov/wages/index.html>. See Volume I of the Petitions at page 40 and Volume II of the Petitions at Exhibit 29. For purposes of initiation, the Department determines that the surrogate values used by the petitioners are reasonably available and, thus, acceptable for purposes of initiation.

The petitioners determined electricity costs using the electricity consumption, in kilowatt hours, derived from their own experience. The petitioners valued electricity using the Indian electricity rate reported by the Central Electric Authority of the Government of India. The petitioners inflated the electricity rate to the POI using the Indian Wholesale Price Index as published by the IFS and converted it from Indian rupees to U.S. dollars using the Department’s POI exchange rates. See Supplement to the Petitions, dated April 8, 2009, at page 21 and Exhibit CI–16.

The petitioners based factory overhead, SG&A, and profit on data from Synthetic Packers Pvt. Ltd. for the fiscal year April 1, 2007, through March 31, 2008. See Volume I of the Petitions at page 40 and Volume II of the Petitions at Exhibit 31. For purposes of initiation, the Department finds the petitioners’ use of Synthetic’s financial ratios appropriate.

Fair–Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of PRCBs from Indonesia, Taiwan, and Vietnam are being, or are likely to be, sold in the United States at less than fair value. Based on a comparison of EPs (using methods one and three presented by the petitioners) and CV calculated in accordance with section 773(a)(4) of the Act, the estimated dumping margins for PRCBs from Indonesia range from 35.47 to 60.24 percent. See Indonesia Initiation Checklist. Based on a comparison of EPs (methods one and three) and CV calculated in accordance with section 773(a)(4) of the Act, the estimated

revised dumping margins for PRCBs from Taiwan range from 76.25 to 95.81 percent. See Taiwan Initiation Checklist. Based on a comparison of EPs (methods one and three) and NV calculated in accordance with section 773(c) of the Act, the estimated dumping margins for PRCBs from Vietnam range from 28.49 to 76.11 percent. See Vietnam Initiation Checklist.

Initiation of Antidumping Investigations

Based upon the examination of the Petitions on PRCBs from Indonesia, Taiwan, and Vietnam the Department finds that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of PRCBs from Indonesia, Taiwan, and Vietnam are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Targeted–Dumping Allegations

On December 10, 2008, the Department issued an interim final rule for the purpose of withdrawing 19 CFR 351.414(f) and (g), the regulatory provisions governing the targeted–dumping analysis in antidumping duty investigations, and the corresponding regulation governing the deadline for targeted–dumping allegations, 19 CFR 351.301(d)(5). See *Withdrawal of the Regulatory Provisions Governing Targeted Dumping in Antidumping Duty Investigations*, 73 FR 74930 (December 10, 2008). The Department stated that “{w}ithdrawal will allow the Department to exercise the discretion intended by the statute and, thereby, develop a practice that will allow interested parties to pursue all statutory avenues of relief in this area.” *Id.* at 74931.

In order to accomplish this objective, if any interested party wishes to make a targeted–dumping allegation in any of these investigations pursuant to section 777A(d)(1)(B) of the Act, such allegations are due no later than 45 days before the scheduled date of the country–specific preliminary determination.

Respondent Selection

Indonesia and Taiwan

For these investigations, the Department intends to select respondents based on U.S. Customs and

Border Protection (CBP) data for U.S. imports under HTSUS number 3923.21.0085 during the POI. We intend to release the CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five days of publication of this **Federal Register** notice and make our decision regarding respondent selection within 20 days of publication of this notice. The Department invites comments regarding the CBP data and respondent selection within 10 days of publication of this **Federal Register** notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Instructions for filing such applications may be found on the Department’s website at <http://ia.ita.doc.gov/apo>.

Vietnam

For this investigation, the Department will request quantity and value information from all known exporters and producers identified with complete contact information in the Petition. The quantity and value data received from NME exporters/producers will be used as the basis to select the mandatory respondents.

The Department requires that the respondents submit a response to both the quantity and value questionnaire and the separate–rate application by the respective deadlines in order to receive consideration for separate–rate status. See *Circular Welded Austenitic Stainless Pressure Pipe from the People’s Republic of China: Initiation of Antidumping Duty Investigation*, 73 FR 10221, 10225 (February 26, 2008), and *Initiation of Antidumping Duty Investigation: Certain Artist Canvas From the People’s Republic of China*, 70 FR 21996, 21999 (April 28, 2005). Attachment II of this notice contains the quantity and value questionnaire that must be submitted by all NME exporters/producers no later than May 11, 2009. In addition, the Department will post the quantity and value questionnaire along with the filing instructions on the Import Administration website at <http://ia.ita.doc.gov/ia-highlights-and-news.html>. Also, the Department will send the quantity and value questionnaire to those Vietnam companies identified in the Supplement to the Petitions, dated April 16, 2009, at Exhibits II–6, III–12.

Separate Rates

In order to obtain separate–rate status in NME investigations, exporters and producers must submit a separate–rate status application. See Policy Bulletin

05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations Involving Non-Market Economy Countries (April 5, 2005) (Separate Rates and Combination Rates Bulletin), available on the Department's website at <http://ia.ita.doc.gov/policy/bull05-1.pdf>. Based on our experience in processing the separate-rate applications in previous antidumping duty investigations, we have modified the application for this investigation to make it more administrable and easier for applicants to complete. See, e.g., *Initiation of Antidumping Duty Investigation: Certain New Pneumatic Off-the-Road Tires From the People's Republic of China*, 72 FR 43591, 43594-95 (August 6, 2007). The specific requirements for submitting the separate-rate application in this investigation are outlined in detail in the application itself, which will be available on the Department's website at <http://ia.ita.doc.gov/nme/nme-sep-rate.html> on the date of publication of this initiation notice in the **Federal Register**. The separate-rate application will be due 60 days after publication of this initiation notice. As noted in the "Respondent Selection" section above, the Department requires that respondents submit a response to both the quantity and value questionnaire and the separate-rate application by the respective deadlines in order to receive consideration for separate-rate status.

Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of "combination rates"

because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.

See Separate Rates and Combination Rates Bulletin, at page 6 (emphasis added).

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public versions of the Petitions have been provided to the representatives of the Governments of Indonesia, Taiwan, and Vietnam. We will attempt to provide a copy of the public version of the Petitions to the foreign producers/exporters, consistent with 19 CFR 351.203(c)(2).

International Trade Commission Notification

We have notified the ITC of our initiations, as required by section 732(d) of the Act.

Preliminary Determinations by the International Trade Commission

The ITC will preliminarily determine, no later than May 15, 2009, whether there is a reasonable indication that imports of PRCBs from Indonesia, Taiwan, and Vietnam are materially injuring, or threatening material injury to, a U.S. industry. A negative ITC determination with respect to any country will result in the investigation being terminated for that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: April 20, 2009.

Ronald K. Lorentzen,
Assistant Secretary for Import Administration.

Attachment I

Scope of the Investigations

The merchandise subject to these investigations is polyethylene retail carrier bags (PRCBs), which also 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 these investigations 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 merchandise included within the scope of these investigations are currently classifiable under statistical category 3923.21.0085 of the Harmonized Tariff Schedule of the United States (HTSUS). This subheading may also cover products that are outside the scope of these investigations. Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.

Attachment II

Format For Reporting Quantity and Value of Sales

In providing the information in the chart below, please provide the total quantity in both pieces (1,000 units) and kilograms (kg) (net weight) and total value (in U.S. dollars) of all your sales to the United States during the period July 1, 2008, through December 31, 2008, covered by the scope of this investigation (see Attachment II), produced in the Vietnam, *i.e.* PRCBs. Please provide the conversion factor used to convert pieces (1,000 units) to kg (net weight).

Please use the invoice date when determining which sales to include within the period noted above.¹ Additionally, if you believe that you should be treated as a single entity along with other named exporters, please complete the chart, below, both in the aggregate for all named parties in your

¹ If you believe that another date besides the invoice date would provide a more accurate representation of your company's sales during the designated period, please provide a full explanation.

group and, in separate charts, individually for each named entity. Please label each chart accordingly. Please state whether you exported PRCBs to the United States during the POI.

If you did export PRCBs to the United States during the POI, please state whether you produced 100 percent of the PRCBs that you exported to the United States during the POI.

If you did produce 100 percent of the PRCBs that you exported to the United States during the POI, please provide the following:

Market: United States	Total Quantity (kg) (Net Weight)	Total Quantity Pieces (1,000 units)	Terms of Sale ²	Total Value ³ (\$U.S.)
1. Export Price ⁴ . 2. Constructed Export Price ⁵ . 3. Further Manufactured ⁶ . Total.				

²To the extent possible, sales values should be reported based on the same terms (e.g., FOB).

³Values should be expressed in U.S. dollars. Indicate any exchange rates used and their respective dates and sources.

⁴Generally, a U.S. sale is classified as an export price sale when the first sale to an unaffiliated person occurs before the goods are imported into the United States.

⁵Generally, a U.S. sale is classified as a constructed export price sale when the first sale to an unaffiliated person occurs after importation. However, if the first sale to the unaffiliated person is made by a person in the United States affiliated with the foreign exporter, constructed export price applies even if the sale occurs prior to importation. Do not report the sale to the affiliated party in the United States, rather report the sale made by the affiliated party to the unaffiliated customer in the United States.

⁶"Further manufactured" refers to merchandise that undergoes further manufacture or assembly in the United States before sale to the first unaffiliated customer.

If you did not produce 100 percent of the PRCBs that you exported to the United States during the POI, please provide the following information:

- 1) Identify **each** company which produced the PRCBs (Company A) that you (Company B) exported to the United States;
- 2) Provide the physical address of **each** company which produced the

- PRCBs (Company A) that you (Company B) exported to the United States during the POI;
- 3) For **each** company (Company/Companies A) which produced the PRCBs that you (Company B) exported, provide the quantity (in kg and pieces) and value of the PRCBs that you (Company B) exported to the United States during

- the POI;
- 4) Provide the quantity (in kg and pieces) and the value of the PRCBs that you (Company B) exported to the United States during the POI that was produced by your company (Company B);
- 5) Use the chart below to provide the information requested above:

Market: United States	Name of Company A	Country of Company A	Name of Company B	Quantity in Both (kg) (Net Weight) and Pieces (1,000 units) Produced By Company A and Exported by Company B	Quantity (kg) (Net Weight) and Pieces (1,000 units) Produced By Company B and Exported by Company B	Value of Quantity Produced By Company A and Exported by Company B	Value of Quantity Produced By Company B and Exported by Company B
Export Price. Constructed Export Price. Further Manufactured. Total.							