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Sunset Reviews
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June 25, 2021

MEMORANDUM TO: James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations

FROM: Alex Villanueva
Senior Director, Office VII
Antidumping and Countervailing Duty Operations

SUBJECT: Issues and Decision Memorandum for the Expedited Sunset
Reviews of the Antidumping Duty Orders on Polyethylene
Retail Carrier Bags from Indonesia, Malaysia, the People's
Republic of China, Taiwan, Thailand, and the Socialist
Republic of Vietnam

I. SUMMARY

We analyzed the substantive responses of the domestic interested party¹ in the sunset reviews of the antidumping duty (AD) orders covering polyethylene retail carrier bags (PRCBs) from Indonesia, Malaysia, the People's Republic of China (China), Taiwan, Thailand, and the Socialist Republic of Vietnam (Vietnam).² No other interested party submitted a substantive

¹ The Polyethylene Retail Carrier Bag Committee (domestic interested party, or the petitioner), which is comprised of two domestic producers of PRCBs: Hilex Poly Co., LLC, and Superbag LLC (formerly Superbag Corporation). The holding company of Hilex Poly Co., LLC is Novolex Holdings, LLC, and Hilex Poly Co., LLC uses the trade name "Novolex" in the marketplace. See domestic interested party's Letters: "Five-Year ("Sunset") Review Of Antidumping Duty Order On Polyethylene Retail Carrier Bags From Indonesia: Domestic Industry Substantive Response," dated April 28, 2021 (Indonesia Substantive Response); see also "Five-Year ("Sunset") Review Of Antidumping Duty Order On Polyethylene Retail Carrier Bags From Malaysia: Domestic Industry Substantive Response," dated April 28, 2021 (Malaysia Substantive Response); "Five-Year ("Sunset") Review Of Antidumping Duty Order On Polyethylene Retail Carrier Bags from the People's Republic of China: Domestic Industry Substantive Response," dated April 28, 2021 (China Substantive Response); "Five-Year ("Sunset") Review Of Antidumping Duty Order On Polyethylene Retail Carrier Bags From Taiwan: Domestic Industry Substantive Response," dated April 28, 2021 (Taiwan Substantive Response); "Five-Year ("Sunset") Review Of Antidumping Duty Order On Polyethylene Retail Carrier Bags from Thailand: Domestic Industry Substantive Response," dated April 28, 2021 (Thailand Substantive Response); and "Five-Year ("Sunset") Review Of Antidumping Duty Order On Polyethylene Retail Carrier Bags from Vietnam: Domestic Industry Substantive Response," dated April 28, 2021 (Vietnam Substantive Response).

² See *Antidumping Duty Orders: Polyethylene Retail Carrier Bags from Indonesia, Taiwan, and the Socialist Republic of Vietnam*, 75 FR 23667 (May 4, 2010) (Indonesia, Taiwan, and Vietnam Orders); see also *Antidumping Duty Order: Polyethylene Retail Carrier Bags from Malaysia*, 69 FR 48203 (August 9, 2004) (Malaysia Order); *Antidumping Duty Order: Polyethylene Retail Carrier Bags from the People's Republic of China*, 69 FR 48201



response. Accordingly, we conducted expedited (120-day) sunset reviews pursuant to section 751(c)(3)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.218(e)(1)(ii)(C)(2). We recommend that you approve the positions described in the “Discussion of the Issues” section of this memorandum. Below is the complete list of the issues in this sunset review for which we received a substantive response:

1. Likelihood of continuation or recurrence of dumping
2. Magnitude of the margins likely to prevail

II. BACKGROUND

On March 31, 2021, the Department of Commerce (Commerce) published the notice of initiation of the sunset reviews of the *AD Orders*.³ On April 9, 2021, Commerce received timely and complete notices of intent to participate in the sunset reviews from the domestic interested party within the deadline specified in 19 CFR 351.218(d)(1).⁴ The domestic interested party claimed interested party status pursuant to sections 771(9)(C) and 771(9)(E) of the Act.⁵

Commerce received a complete substantive response from the domestic interested party within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).⁶ Commerce did not receive a substantive response from any respondent interested party. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted an expedited (120-day) sunset review of the *AD Orders*.

III. SCOPE OF THE ORDERS

The merchandise covered by the *AD Orders* on PRCBs from Indonesia, Malaysia, China, Taiwan, Thailand, and Vietnam is 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 orders excludes (1) polyethylene bags that are not printed with logos or store names and that are

(August 9, 2004) (China Order); *Antidumping Duty Order: Polyethylene Retail Carrier Bags from Thailand*, 69 FR 48204 (August 9, 2004) (Thailand Order) (collectively, *AD Orders*).

³ See *Initiation Notice of Five-Year (Sunset) Reviews*, 86 FR 16701 (March 31, 2021).

⁴ See Notices of Intent to Participate in Indonesia, Malaysia, China, Taiwan, Thailand, and Vietnam Sunset Reviews (April 9, 2021).

⁵ *Id.*

⁶ See Indonesia Substantive Response; Malaysia Substantive Response; China Substantive Response; Taiwan Substantive Response; Thailand Substantive Response; and Vietnam Substantive Response.

closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end-uses other than packaging and carrying merchandise from retail establishments, e.g., garbage bags, lawn bags, trash-can liners.

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

IV. HISTORY OF THE ORDERS

Investigations

Indonesia

On April 1, 2010, Commerce published the final determination of sales at less than fair value (LTFV) on PRCBs from Indonesia.⁷ In the final determination, Commerce found AD margins as follows:

Company	Weighted-Average Margin (Percent) ⁸
P.T. Sido Bangun Indonesia	85.17
P.T. Super Exim Sari Ltd. and P.T. Super Makmur	69.64
All Others	69.64

Following the publication of Commerce's final determination, the U.S. International Trade Commission (ITC) found that the U.S. industry was materially injured by reason of the imports of subject merchandise.⁹ On May 4, 2010, Commerce published the AD order on PRCBs from Indonesia.¹⁰

Malaysia

On June 18, 2004, Commerce published the final determination of sales at LTFV on PRCBs from Malaysia.¹¹ In the final determination, Commerce found AD margins as follows:

⁷ See *Polyethylene Retail Carrier Bags from Indonesia: Final Determination of Sales at Less Than Fair Value*, 75 FR 16431 (April 1, 2010) (*Indonesia LTFV Final*).

⁸ *Id.*

⁹ See *Polyethylene Retail Carrier Bags from Indonesia, Taiwan, and Vietnam*, Investigation Nos. 701-TA-462 and 731-TA-1156-1158 (Final), USITC Publication 4144 (April 2010) (*Second ITC Determinations*).

¹⁰ See *Indonesia, Taiwan, and Vietnam Orders*.

¹¹ See *Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags from Malaysia*, 69 FR 34128 (June 18, 2004) (*Malaysia LTFV Final*).

Company	Weighted-Average Margin (Percent) ¹²
Bee Lian Plastic Industries Sdn. Bhd. (excluded)	0.91
Teong Chuan Plastic and Timber Sdn. Bhd.	101.74
Brandpak Industries Sdn. Bhd.	101.74
Gants Pac Industries	101.74
Sido Bangun Sdn. Bhd.	101.74
Zhin Hin/Chin Hin Plastic Manufacturer Sdn. Bhd.	101.74
All Others	84.94

Following the publication of Commerce's final determination, the ITC found that the U.S. industry was materially injured by reason of the imports of subject merchandise.¹³ On January 28, 2004, Commerce published the AD order on PRCBs from Malaysia.¹⁴

China

On June 18, 2004, Commerce published the final determination of sales at LTFV on PRCBs from China.¹⁵ On July 15, 2004, Commerce published its amended final determination in response to the petitioner's allegations of ministerial errors in the calculations of dumping margins.¹⁶ In the final determination, as amended, Commerce found AD margins as follows:

Company	Weighted-Average Margin (Percent) ¹⁷
Hang Lung Plastic Manufactory, Ltd. (excluded)	0.24
Dongguan Huang Jiang United Wah Plastic Bag Factory (also known as Dongguan Nozawa Plastics Ltd. and United Power Packaging, Ltd.)	23.22
Nantong Huasheng Plastic Products Co., Ltd. (excluded)	0.01
Rally Plastics Company, Ltd.	23.85
Shanghai Glopack Packing Company, Ltd., and Sea Lake Polyethylene Enterprise, Ltd.	19.79
Xiamen Ming Pak Plastics Company, Ltd.	35.58
Zhongshan Dongfeng Hung Wai Plastic Bag Manufactory	41.28
Beijing Lianbin Plastics and Printing Company, Ltd.	25.69

¹² *Id.*

¹³ See *Polyethylene Retail Carrier Bags from PRC, Malaysia, and Thailand*, Invs. 731-TA-1043-1045, Publication No. 3710 (August 2004); *Polyethylene Retail Carrier Bags from China, Malaysia, and Thailand*, 69 FR 47957 (August 6, 2004) (collectively, *First ITC Determinations*).

¹⁴ See Malaysia Order.

¹⁵ See *Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags from the People's Republic of China*, 69 FR 34125 (June 18, 2004) (*China LTFV Final*).

¹⁶ See *Notice of Amended Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags from the People's Republic of China*, 69 FR 42419 (July 15, 2004).

¹⁷ *Id.*

Dongguan Maruman Plastic Packaging Co., Ltd. (formerly Dongguan Zhongqiao Combine Plastic bag factory)	25.69
Good-in Holdings, Ltd.	25.69
Guangdong Esquel Packaging Co., Ltd.	25.69
Nan Sing Plastics, Ltd.	25.69
Ningbo Fanrong Plastics Products Co., Ltd.	25.69
Ningbo Huansen Plastics Co., Ltd.	25.69
Rain Continent Shanghai Company, Ltd.	25.69
Shanghai Dazhi Enterprise Development Company, Ltd.	25.69
Shanghai Fangsheng Coloured Packaging Company, Ltd.	25.69
Shanghai Jingtai Packaging Material Company, Ltd.	25.69
Shanghai Light Industrial Products Import and Export Corporation	25.69
Shanghai Minmetals Development, Ltd.	25.69
Shanghai New Ai Lian Import and Export Company, Ltd.	25.69
Shanghai Overseas International Trading Company, Ltd.	25.69
Shanghai Yafu Plastics Industries Company, Ltd.	25.69
Weihai Weiquan Plastic and Rubber Products Company, Ltd.	25.69
Xiamen Xingyatai Industry Company, Ltd.	25.69
Xinhui Henglong	25.69
China-wide Rate	77.57

Following the publication of Commerce's final determination, the ITC found that the U.S. industry was materially injured by reason of the imports of subject merchandise.¹⁸ On January 28, 2004, Commerce published the AD order on PRCBs from China.¹⁹

Taiwan

On March 26, 2010, Commerce published the final determination of sales at LTFV on PRCBs from Taiwan.²⁰ In the final determination, Commerce found the AD margins as follows:

Company	Weighted-Average Margin (Percent) ²¹
Ipsido Corporation	95.81
TCI Plastic Co., Ltd.	36.54
All Others	36.54

Following the publication of Commerce's final determination, the ITC found that the U.S. industry was materially injured by reason of the imports of subject merchandise.²² On May 4,

¹⁸ See *Second ITC Determinations*.

¹⁹ See China Order.

²⁰ See *Polyethylene Retail Carrier Bags from Taiwan: Final Determination of Sales at Less Than Fair Value*, 75 FR 14569 (March 26, 2010) (*Taiwan LTFV Final*).

²¹ *Id.*

²² See *Second ITC Determinations*.

2010, Commerce published the AD order on PRCBs from Taiwan.²³

Thailand

On June 18, 2004, Commerce published the final determination of sales at LTFV on PRCBs from Thailand.²⁴ On July 15, 2004, Commerce published its amended final determination in response to the petitioner's allegations of ministerial errors in the calculations of dumping margins.²⁵ In the final determination, as amended, Commerce found the AD margins as follows:

Company	Weighted-Average Margin (Percent) ²⁶
Thai Plastic Bags Industries Co., Ltd.	2.26
Universal Polybag Co. Ltd./Advance Polybag Inc./ Alpine Plastics Inc./API Enterprises Inc.	5.35
TRC Polypack	122.88
Champion Paper Polybags Ltd.	122.88
Zip-Pac Co., Ltd.	122.88
All Others	2.80

Following the publication of Commerce's final determination, the ITC found that the U.S. industry was materially injured by reason of the imports of subject merchandise.²⁷ On January 28, 2004, Commerce published the AD order on PRCBs from Thailand.²⁸

On August 12, 2010, Commerce published the results of a section 129 proceeding concerning the AD order on PRCBs from Thailand.²⁹ As a result of this proceeding, Commerce found the AD margins as follows:

Company	Weighted-Average Margin (Percent) ³⁰
Thai Plastic Bags Industries Co., Ltd.	0.00 ³¹
Universal Polybag Co. Ltd./Advance Polybag Inc./ Alpine Plastics Inc./API Enterprises Inc.	4.69

²³ See Indonesia, Taiwan, and Vietnam Orders.

²⁴ See *Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags from Thailand*, 69 FR 34122 (June 18, 2004) (*Thailand LTFV Final*).

²⁵ 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).

²⁶ *Id.*

²⁷ See *First ITC Determinations*.

²⁸ See *Thailand Order*.

²⁹ See *Notice of Implementation of Determination Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Order on Polyethylene Retail Carrier Bags from Thailand*, 75 FR 48940 (August 12, 2010) (*Thailand 129 Proceeding*). As a result of this proceeding, we revoked the Thailand Order with respect to Thai Plastic Bags Industries Co., Ltd.

³⁰ *Id.*

³¹ Because the recalculated margin for Thai Plastic Bags Industries Co., Ltd., was zero, Commerce revoked the Thailand Order with respect to this company effective July 28, 2010. *Id.*

TRC Polypack	122.88
Champion Paper Polybags Ltd.	122.88
Zip-Pac Co., Ltd.	122.88
All Others	4.69

Vietnam

On April 1, 2010, Commerce published the final determination of sales at LTFV on PRCBs from Vietnam.³² In the final determination, Commerce found the AD margins as follows:

<u>Manufacturer</u>	<u>Exporter</u>	<u>Weighted-Average Margin (Percent)</u> ³³
Alpha Plastics (Vietnam) Co, Ltd.	Alpha Plastics (Vietnam) Co. Ltd.	52.30
Alta Company	Alta Company	52.30
Ampac Packaging Vietnam Ltd.	Ampac Packaging Vietnam Ltd.	52.30
BITAHACO	BITAHACO	52.30
Chin Sheng Co., Ltd.	Chin Sheng Co., Ltd.	52.30
Chung Va (Vietnam) Plastic Packaging Co., Ltd.	Chung Va Century Macao Commercial Offshore Limited	52.30
Hanoi 27-7 Packaging Company Limited, aka Hanoi 27-7 Packing Company Limited, aka HAPACK Co. Ltd, aka HAPACK	Hanoi 27-7 Packaging Company Limited, aka Hanoi 27-7 Packing Company Limited, aka HAPACK Co. Ltd, aka HAPACK	52.30
Hoi Hung Company Limited	Kong Wai Polybag Printing Company	52.30
Kinsplastic Vietnam Ltd. Co.	Kinsplastic Vietnam Ltd. Co.	52.30
Loc Cuong Trading Producing Company Limited, aka Loc Cuong Trading Producing Company, aka Loc Cuong Trading Producing Co. Ltd.	Loc Cuong Trading Producing Company Limited, aka Loc Cuong Trading Producing Company, aka Loc Cuong Trading Producing Co. Ltd.	52.30
Ontrue Plastics Co., Ltd. (Vietnam)	Ontrue Plastics Co., Ltd. (Vietnam)	52.30

³² See *Polyethylene Retail Carrier Bags from the Socialist Republic of Vietnam: Final Determination of Sales at Less Than Fair Value*, 75 FR 16434 (April 1, 2010) (*Vietnam LTFV Final*).

³³ *Id.* In the initiation notice, Commerce stated that it would calculate combination rates for respondents that are eligible for a separate rate in this investigation. See *Polyethylene Retail Carrier Bags from Indonesia, Taiwan, and the Socialist Republic of Vietnam: Initiation of Antidumping Duty Investigations*, 74 FR 19049 (April 27, 2009). This practice is described in *Separate Rates and Combination Rates in Antidumping Investigations involving Non-Market Economy Countries*, 70 FR 17233 (April 5, 2005).

Richway Plastics Vietnam Co., Ltd.	Richway Plastics Vietnam Co., Ltd.	52.30
RKW Lotus Limited Co., Ltd., aka RKW Lotus Limited, aka RKW Lotus Ltd.	RKW Lotus Limited Co., Ltd., aka RKW Lotus Limited, aka RKW Lotus Ltd.	52.30
VINAPACKINK Co., Ltd.	VINAPACKINK Co., Ltd.	52.30
VN K's International Polybags Joint Stock Company	K's International Polybags MFG Ltd.	52.30
VN Plastic Industries Co. Ltd	VN Plastic Industries Co. Ltd	52.30
	Vietnam-Wide Entity	76.11

Following the publication of Commerce's final determination, the ITC found that the U.S. industry was materially injured by reason of the imports of subject merchandise.³⁴ On May 4, 2010, Commerce published the AD order on PRCBs from Vietnam.³⁵

Administrative Reviews

Indonesia, Taiwan, and Vietnam

Since the publication of the *AD Orders*, Commerce conducted no administrative reviews of the AD orders on PRCBs from Indonesia, Taiwan, or Vietnam.

China

Since the publication of the *AD Orders*, Commerce completed five administrative reviews of the AD order on PRCBs from China.³⁶ In the completed administrative reviews, Commerce continued to determine an above *de minimis* margin for certain producers/exporters from China.

³⁴ See *Second ITC Determinations*.

³⁵ See *Indonesia, Taiwan, and Vietnam Orders*.

³⁶ See *Polyethylene Retail Carrier Bags from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 72 FR 12762 (March 19, 2007), amended in *Polyethylene Retail Carrier Bags from the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review*, 72 FR 26336 (May 9, 2007) (*China 2004-2005 Final Results*); see also *Polyethylene Retail Carrier Bags from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Review*, 73 FR 14216 (March 17, 2008) (*China 2005-2006 Final Results*); *Polyethylene Retail Carrier Bags from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 6857 (February 11, 2009) (*China 2006-2007 Final Results*); *Polyethylene Retail Carrier Bags from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 74 FR 63718 (December 4, 2009) (*China 2007-2008 Final Results*); and *Polyethylene Retail Carrier Bags from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2017-2018*, 84 FR 52066 (October 1, 2019) (*China 2017-2018 Final Results*). In addition, we initiated reviews of the August 1, 2008, through July 31, 2009, period, the August 1, 2009, through July 31, 2010, period, the August 1, 2010, through July 31, 2011, period, the August 1, 2011, through July 31, 2012, the August 1, 2012, through July 31, 2013 period, the August 1, 2013, through July 31, 2014 period, the August 1, 2015, through July 31, 2016 period, the August 1, 2016, through July 31, 2017 period, the August 1, 2018, through July 31, 2019 period, and the August 1, 2019, through July 31, 2020 period but all requests for review were withdrawn and we rescinded these reviews in their entirety. See *Polyethylene Retail Carrier Bags from the People's Republic of China: Rescission of Antidumping Duty Administrative Review*, 74 FR 68253 (December 23, 2009); *Polyethylene*

Malaysia

Since the publication of the *AD Orders*, Commerce completed eight administrative reviews of the AD order on PRCBs from Malaysia.³⁷ In the completed administrative reviews, Commerce continued to determine an above *de minimis* margin for certain producers/exporters from Malaysia. Currently, Commerce is in the process of conducting the administrative review for the period August 1, 2019, through July 31, 2020.³⁸

Thailand

Since the publication of the *AD Orders*, Commerce completed eleven administrative reviews of the AD order on PRCBs from Thailand.³⁹ In the completed administrative reviews, Commerce

Retail Carrier Bags from the People's Republic of China: Rescission of Antidumping Duty Administrative Review, 76 FR 11203 (March 1, 2011); *Polyethylene Retail Carrier Bags from the People's Republic of China: Rescission of Antidumping Duty Administrative Review*, 77 FR 2959 (January 20, 2012); *Polyethylene Retail Carrier Bags from the People's Republic of China: Rescission of Antidumping Duty Administrative Review*; 2011-2012, 78 FR 88 (January 2, 2013); *Polyethylene Retail Carrier Bags from the People's Republic of China: Rescission of Antidumping Duty Administrative Review*; 2012-2013, 79 FR 3179 (January 17, 2014); *Polyethylene Retail Carrier Bags from the People's Republic of China: Rescission of Antidumping Duty Administrative Review*; 2013-2014, 80 FR 5087 (January 30, 2015); *Polyethylene Retail Carrier Bags from the People's Republic of China: Rescission of Antidumping Duty Administrative Review*; 2014-2015, 81 FR 1939 (January 14, 2016); *Polyethylene Retail Carrier Bags from the People's Republic of China: Rescission of Antidumping Duty Administrative Review*; 2015-2016, 82 FR 8910 (February 1, 2017); *Polyethylene Retail Carrier Bags from the People's Republic of China: Rescission of Antidumping Duty Administrative Review*; 2016-2017, 83 FR 4186 (January 30, 2018); *Polyethylene Retail Carrier Bags from the People's Republic of China: Rescission of Antidumping Duty Administrative Review*; 2018-2019, 85 FR 4636 (January 27, 2020); and *Polyethylene Retail Carrier Bags from the People's Republic of China: Rescission of Antidumping Duty Administrative Review*; 2019-2020, 85 FR 79168 (December 19, 2020).

³⁷ See *Polyethylene Retail Carrier Bags from Malaysia: Final Results of Antidumping Duty Administrative Review*, 72 FR 44825 (August 9, 2007) (*Malaysia 2005-2006 Final Results*); see also *Polyethylene Retail Carrier Bags from Malaysia: Final Results of Antidumping Duty Administrative Review*, 74 FR 58947 (November 16, 2009) (*Malaysia 2007-2008 Final Results*); *Polyethylene Retail Carrier Bags from Malaysia: Final Results of Antidumping Duty Administrative Review*, 75 FR 61128 (October 4, 2010) (*Malaysia 2008-2009 Final Results*); *Polyethylene Retail Carrier Bags from Malaysia: Final Results of the Antidumping Duty Administrative Review*; 2014-2015, 81 FR 75378 (October 31, 2016) (*Malaysia 2014-2015 Final Results*); *Polyethylene Retail Carrier Bags from Malaysia: Final Results of Antidumping Duty Administrative Review*; 2015-2016, 82 FR 23530 (May 23, 2017) (*Malaysia 2015-2016 Final Results*); *Polyethylene Retail Carrier Bags from Malaysia: Final Results of Antidumping Duty Administrative Review*; 2016-2017, 83 FR 23894 (May 23, 2018) (*Malaysia 2016-2017 Final Results*); *Polyethylene Retail Carrier Bags from Malaysia: Final Results of Antidumping Duty Administrative Review*; 2017-2018, 85 FR 8251 (February 13, 2020) (*Malaysia 2017-2018 Final Results*); *Polyethylene Retail Carrier Bags from Malaysia: Final Results of Antidumping Administrative Review*; 2018-19, 86 FR 22019 (April 26, 2021) (*Malaysia 2018-2019 Final Results*).

³⁸ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 63081 (October 6, 2020).

³⁹ See *Polyethylene Retail Carrier Bags from Thailand: Final Results of Antidumping Duty Administrative Review*, 72 FR 1982 (January 17, 2007) (*Thailand 2004-2005 Final Results*); see also *Polyethylene Retail Carrier Bags from Thailand: Final Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 64580 (November 16, 2007) (*Thailand 2005-2006 Final Results*); *Polyethylene Retail Carrier Bags from Thailand: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 74 FR 2511 (January 15, 2009) (*Thailand 2006-2007 Final Results*); *Polyethylene Retail Carrier Bags from Thailand: Final Results of Antidumping Duty Administrative Review*, 74 FR 65751 (December 11, 2009) (*Thailand 2007-2008 Final Results*); *Polyethylene Retail Carrier Bags from Thailand: Final Results of Antidumping Duty Administrative*

continued to determine an above *de minimis* margin for certain producers/exporters from Thailand.

Deposit rates remain in effect for imports of subject merchandise from Indonesia, Malaysia, China, Taiwan, Thailand, and Vietnam.

Duty-Absorption Findings, Changed-Circumstances Reviews, Section 129 Proceedings, Scope Inquiries, Anticircumvention Inquiries

Indonesia and Vietnam

There have been no duty-absorption findings, changed-circumstances reviews, proceedings conducted pursuant to section 129 of the Uruguay Round Agreements Act (section 129 proceedings), scope inquiries, or anticircumvention inquiries concerning the AD orders on PRCBs from Indonesia and Vietnam.

Malaysia

Since the publication of the *AD Orders*, Commerce made no duty-absorption determinations, changed-circumstances reviews, section 129 proceedings, or anticircumvention inquiries concerning PRCBs from Malaysia.

There have been numerous scope rulings with respect to PRCBs from Malaysia:

- May 9, 2005 – Polyethylene sample bags are covered by the order.⁴⁰
- September 29, 2005 – Bags with molded handles and a snapping closure are covered by the order.⁴¹
- November 15, 2007 – Certain hospital belongings bags are covered by the order.⁴²
- January 8, 2008 – Certain MABIS Healthcare hospital bags are not covered by the order.⁴³

Review, 76 FR 12700 (March 8, 2011) (*Thailand 2008-2009 Final Results*); *Polyethylene Retail Carrier Bags from Thailand: Final Results of Antidumping Duty Administrative Review*, 76 FR 59999 (September 28, 2011) (*Thailand 2009-2010 Final Results*); *Polyethylene Retail Carrier Bags from Thailand: Final Results of Antidumping Duty Administrative Review*; 2011-2012, 78 FR 50376 (August 19, 2013) (*Thailand 2011-2012 Final Results*); *Polyethylene Retail Carrier Bags from Thailand: Final Results of Antidumping Duty Administrative Review*; 2012-2013, 79 FR 51953 (September 2, 2014) (*Thailand 2012-2013 Final Results*); *Polyethylene Retail Carrier Bags from Thailand: Final Results of Antidumping Duty Administrative Review*; 2013-2014, 80 FR 39056 (July 8, 2015) (*Thailand 2013-2014 Final Results*); *Polyethylene Retail Carrier Bags from Thailand: Final Results of Antidumping Duty Administrative Review*; 2014-2015, 81 FR 36891 (June 8, 2016) (*Thailand 2014-2015 Final Results*); and *Polyethylene Retail Carrier Bags from Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments*; 2015-2016, 82 FR 44160 (September 21, 2017) (*Thailand 2015-2016 Final Results*). In addition, we initiated a review of the August 1, 2010, through July 31, 2011, period, but all requests for review were withdrawn and we rescinded this review in its entirety. *See Polyethylene Retail Carrier Bags from Thailand: Rescission of Antidumping Duty Administrative Review*, 77 FR 25684 (May 1, 2012).

⁴⁰ See *Notice of Scope Rulings*, 70 FR 55110 (September 20, 2005).

⁴¹ See *Notice of Scope Rulings*, 70 FR 70785 (November 23, 2005).

⁴² See *Notice of Scope Rulings*, 73 FR 9293 (February 20, 2008).

⁴³ See *Notice of Scope Rulings*, 73 FR 29739 (May 22, 2008).

- May 8, 2008 – Six models of hospital patient-belongings bags and surgical kit bags in question are covered by the order while four are not.⁴⁴

China

Since the publication of the *AD Orders*, Commerce made one affirmative duty-absorption determination concerning PRCBs from China with respect to Dongguan Nozawa Plastics Ltd. and United Power Packaging, Ltd. (collectively, Nozawa)⁴⁵ on all U.S. sales made through its affiliated importers in the 2005-2006 Review.⁴⁶

There have been no changed-circumstances reviews or section 129 proceedings concerning the AD order on PRCBs from China.

There have been numerous scope rulings with respect to PRCBs from China:

- May 9, 2005 – Polyethylene sample bags are covered by the order.⁴⁷
- September 29, 2005 – Bags with molded handles and a snapping closure are covered by the order.⁴⁸
- June 5, 2006 – Thirty-five of 58 plastic bags from Consolidated Packaging LLP are not covered by the order.⁴⁹
- October 2, 2006 – Twenty-three plastic bags imported by Consolidated Packaging LLP are not covered by the order.⁵⁰
- November 15, 2007 – Certain hospital patient-belongings bags are not covered by the order.⁵¹
- January 8, 2008 – Certain MABIS Healthcare hospital bags are not covered by the order.⁵²
- May 8, 2008 – Six of the hospital patient-belongings bags and surgical kit bags in question are covered by the order while four are not.⁵³
- July 3, 2008 – Sealable polyethylene plastic bag is not covered by the order.⁵⁴
- July 14, 2008 – A certain polyethylene bag is covered by the order.⁵⁵
- September 2, 2008 – Against All Odds Tee and Jacket Bags are covered by the order.⁵⁶

⁴⁴ See *Notice of Scope Rulings*, 73 FR 49418 (August 21, 2008).

⁴⁵ While known as Dongguan Huang Jiang United Wah Plastic Bag Factory, subsequent reviews indicate that the firm and its affiliates are also known by the following names: Dongguan Nozawa Plastics, Dongguan Nozawa Plastic Co., Ltd., Dong Guan (Dong Wan) Nozawa Plastic Co., Ltd., Dongguan Nozawa Plastic Products Co., Ltd., United Power Packaging, and United Power Packaging Limited. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 56631, 56633 (September 28, 2005), unchanged in *China 2004-2005 Final Results*.

⁴⁶ See *China 2005-2006 Final Results*.

⁴⁷ See *Notice of Scope Rulings*, 70 FR 55110 (September 20, 2005).

⁴⁸ See *Notice of Scope Rulings*, 70 FR 70785 (November 23, 2005).

⁴⁹ See *Notice of Scope Rulings*, 71 FR 42807 (July 28, 2006).

⁵⁰ See *Notice of Scope Rulings*, 72 FR 5677 (February 7, 2007).

⁵¹ See *Notice of Scope Rulings*, 73 FR 9294 (February 20, 2008).

⁵² See *Notice of Scope Rulings*, 73 FR 29739 (May 22, 2008).

⁵³ See *Notice of Scope Rulings*, 73 FR 49418 (August 21, 2008).

⁵⁴ See *Notice of Scope Rulings*, 73 FR 72771 (December 1, 2008).

⁵⁵ *Id.*

⁵⁶ *Id.*

- October 2, 2008 – A certain promotional bag is covered by the order.⁵⁷
- November 19, 2008 – Certain gift bags are not covered by the order.⁵⁸
- January 8, 2009 – Certain MABIS Healthcare hospital bags are not covered by the order.⁵⁹
- July 7, 2009 – Certain gift bags are not covered by the order.⁶⁰
- July 17, 2009 – Certain bags designed for hospital use are not covered by the order.⁶¹
- July 6, 2012 – Certain ice bags are not covered by the order.⁶²
- October 5, 2012 – Certain valet laundry bags are not covered by the order.⁶³
- December 16, 2015 – Grand A International Company, Inc.’s “green t-shirt bags reusable” bags are covered by the order.⁶⁴
- October 12, 2016 – Certain non-woven polypropylene bags are not covered by the order.⁶⁵
- September 21, 2017 – Pan Pacific Plastics Manufacturing Inc.’s “Seal2Go” Model A sealable food bags are not covered by the order.⁶⁶
- October 22, 2019 – Certain gift bags are not covered by the order.⁶⁷

There has been one anti-circumvention inquiry concerning the AD order on PRCBs from the China.⁶⁸

Taiwan

There have been no duty-absorption findings, changed-circumstances reviews, or section 129 proceedings concerning the AD order on PRCBs from Taiwan.

There have been two scope rulings with respect to PRCBs from Taiwan:

- July 16, 2012 – Certain specialty patient bags are covered by the order.⁶⁹
- November 19, 2012 – Model Item TSHP bags are covered by the order.⁷⁰

There has been one anticircumvention inquiry concerning the AD order on PRCBs from Taiwan.⁷¹

⁵⁷ See *Notice of Scope Rulings*, 74 FR 14521 (March 31, 2009).

⁵⁸ *Id.*

⁵⁹ See *Notice of Scope Rulings*, 73 FR 29739 (May 22, 2008).

⁶⁰ See *Notice of Scope Rulings*, 75 FR 14138 (March 24, 2010).

⁶¹ See *Notice of Scope Rulings*, 75 FR 14138 (March 24, 2010).

⁶² See *Notice of Scope Rulings*, 78 FR 9370 (February 8, 2013).

⁶³ See *Notice of Scope Rulings*, 78 FR 32372 (May 30, 2013).

⁶⁴ See *Notice of Scope Rulings*, 81 FR 69784 (October 7, 2016).

⁶⁵ See *Notice of Scope Rulings*, 83 FR 23634 (May 22, 2018).

⁶⁶ See *Notice of Scope Rulings*, 84 FR 9295 (March 14, 2019).

⁶⁷ See *Notice of Scope Rulings*, 85 FR 12515 (March 3, 2020).

⁶⁸ See *Polyethylene Retail Carrier Bags from the People’s Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 79 FR 16292 (March 25, 2014).

⁶⁹ See *Notice of Scope Rulings*, 78 FR 9370 (February 8, 2013).

⁷⁰ See *Notice of Scope Rulings*, 78 FR 32372 (May 30, 2013).

⁷¹ See *Polyethylene Retail Carrier Bags from Taiwan: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 79 FR 61056 (October 9, 2014).

Thailand

Since the publication of the *AD Orders*, Commerce made an affirmative duty-absorption determination concerning PRCBs from Thailand with respect to Advance Polybag Inc., Alpine Plastics Inc., API Enterprises Inc., and Universal Polybag Co., Ltd. (collectively UPC/API) on all U.S. sales in the 2005-2006 review and with respect to Master Packaging Co., Ltd. on all U.S. sales in the 2007-2008 review.⁷²

There has been one changed-circumstances review in which Commerce determined that TPBI Public Company Limited (TPBI) is the successor-in-interest to Thai Plastic Bags Industries Company Limited (Thai Plastic Bags Company) and, as such, will be entitled to Thai Plastic Bags Company's exclusion from the AD order.⁷³

There have been no anticircumvention inquiries concerning the AD order on PRCBs from Thailand.

There have been numerous scope rulings with respect to PRCBs from Thailand:

- May 9, 2005 – Polyethylene sample bags are covered by the order.⁷⁴
- November 15, 2007 – Certain hospital belongings bags are not covered by the order.⁷⁵
- January 8, 2008 – Certain MABIS Healthcare hospital bags are not covered by the order.⁷⁶
- May 8, 2008 – Six hospital patient-belongings bags and surgical kit bags in question are covered by the order while four are not.⁷⁷

As noted above, there has been a section 129 proceeding concerning the AD order on PRCBs from Thailand.⁷⁸

Sunset Reviews

2009 Sunset Review

On October 19, 2009, Commerce published the notice of the final results of the sunset review of the AD orders on PRCBs from Malaysia, China, and Thailand, in which it determined that the revocation of the AD orders on PRCBs from these countries would be likely to lead to the continuation or recurrence of dumping.⁷⁹ On June 28, 2010, the ITC published its determination

⁷² See *Thailand 2005-2006 Final Results* and *Thailand 2007-2008 Final Results*, respectively.

⁷³ See *Polyethylene Retail Carrier Bags from Thailand: Notice of Final Results of Antidumping Duty Changed Circumstances Review*, 80 FR 53111 (September 2, 2015).

⁷⁴ See *Notice of Scope Rulings*, 70 FR 55110 (September 20, 2005).

⁷⁵ See *Notice of Scope Rulings*, 73 FR 9294 (February 20, 2008).

⁷⁶ See *Notice of Scope Rulings*, 73 FR 29739 (May 22, 2008).

⁷⁷ See *Notice of Scope Rulings*, 73 FR 49418 (August 21, 2008).

⁷⁸ See *Thailand 129 Proceeding*.

⁷⁹ See *Polyethylene Retail Carrier Bags from the People's Republic of China, Thailand, and Malaysia: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 74 FR 53470 (October 19, 2009) (*Sunset Review 2009*), and accompanying Issues and Decision Memorandum (IDM).

that the revocation of the AD orders on PRCBs from these countries would be likely to lead to continuation or recurrence of material injury to a U.S. industry within a reasonably foreseeable time.⁸⁰ Based on these results, Commerce published a notice of continuation of the AD orders on PRCBs from these countries on July 7, 2010.⁸¹

2015 Sunset Review

On July 13, 2015, Commerce published the notice of the final results of the sunset review of the *AD Orders* on PRCBs from Indonesia, Malaysia, China, Taiwan, Thailand, and Vietnam, in which it determined that the revocation of the *AD Orders* on PRCBs from these countries would be likely to lead to the continuation or recurrence of dumping.⁸² On April 22, 2016, the ITC published its determination that the revocation of the *AD Orders* on PRCBs from these countries would be likely to lead to continuation or recurrence of material injury to a U.S. industry within a reasonably foreseeable time.⁸³ Based on these results, Commerce published a notice of continuation of the *AD Orders* on PRCBs from these countries on May 5, 2016.⁸⁴

Current Sunset Reviews

On March 31, 2021, Commerce published the notice of initiation of the sunset reviews of the *AD Orders* on PRCBs from Indonesia, Malaysia, China, Taiwan, Thailand, and Vietnam pursuant to section 751(c) of the Act.⁸⁵

On April 9, 2021, Commerce received notices of intent to participate in these sunset reviews from the domestic interested party within the 15-day period specified in 19 CFR 351.218(d)(1)(i).⁸⁶ The domestic interested party claimed interested-party status under sections 771(9)(C) and 771(9)(E) of the Act as manufacturers of the domestic like product.⁸⁷

On April 28, 2021, Commerce received complete substantive responses to the *Notice of Initiation* from the domestic interested party within the 30-day period specified in 19 CFR 351.218(d)(3)(i).⁸⁸ Commerce received no substantive responses from respondent interested

⁸⁰ See *Polyethylene Retail Carrier Bags from China, Malaysia, and Thailand; Determinations*, Investigation Nos. 731-TA-1043-1045 (Review), 75 FR 36679 (June 28, 2010).

⁸¹ See *Polyethylene Retail Carrier Bags from the People's Republic of China, Malaysia, and Thailand: Continuation of Antidumping Duty Orders*, 75 FR 38978 (July 7, 2010).

⁸² See *Polyethylene Retail Carrier Bags from Indonesia, Malaysia, the People's Republic of China, Taiwan, Thailand, and the Socialist Republic of Vietnam: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders*, 80 FR 39997 (July 13, 2015) (*Sunset Review 2015*), and accompanying IDM).

⁸³ See *Polyethylene Retail Carrier Bags from China, Indonesia, Malaysia, Taiwan, Thailand, and Vietnam; Determinations*, Investigation Nos. 701-TA-462 and 731-TA-1156-1158 (First Review) and 731-TA-1043-1045 (Second Review), 81 FR 23749 (April 22, 2016).

⁸⁴ See *Polyethylene Retail Carrier Bags from Indonesia, Malaysia, the People's Republic of China, Taiwan, Thailand, and the Socialist Republic of Vietnam: Continuation of Antidumping Duty Orders and Countervailing Duty Order*, 81 FR 27087 (May 5, 2016).

⁸⁵ See *Initiation of Five-year (Sunset) Reviews*, 86 FR 161701 (March 31, 2021) (*Notice of Initiation*).

⁸⁶ See Notices of Intent to Participate in Indonesia, Malaysia, the PRC, Taiwan, Thailand, and Vietnam Sunset Reviews (April 9, 2021).

⁸⁷ See, e.g., Notice of Intent to Participate in Indonesia at 2 (April 9, 2021).

⁸⁸ See Indonesia Substantive Response; Malaysia Substantive Response; China Substantive Response Taiwan Substantive Response; Thailand Substantive Response; and Vietnam Substantive Response.

parties. As a result, in accordance with section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce is conducting expedited (120-day) sunset reviews of the *AD Orders* on PRCBs from Indonesia, Malaysia, China, Taiwan, Thailand, and Vietnam.

V. LEGAL FRAMEWORK

In accordance with section 751(c)(1) of the Act, Commerce is conducting these sunset reviews to determine whether revocation of the *AD Orders* would be likely to lead to continuation or recurrence of dumping. Sections 752(c)(1)(A) and (B) of the Act provide that in making these determinations, Commerce shall consider both the weighted-average dumping margins determined in the investigation and subsequent reviews, and the volume of imports of the subject merchandise for the period before, and the period after, the issuance of the *AD Orders*.

Consistent with the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act, specifically the SAA,⁸⁹ the House Report,⁹⁰ and the Senate Report,⁹¹ Commerce normally determines that revocation of an order is likely to lead to continuation or recurrence of dumping when: (a) dumping continued at any level above *de minimis* after issuance of the order; (b) imports of the subject merchandise ceased after issuance of the order; or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly.⁹² Alternatively, Commerce normally will determine that revocation of an AD order is not likely to lead to continuation or recurrence of dumping where dumping was eliminated after issuance of the order and import volumes remained steady or increased.⁹³ In addition, as a base period for import volume comparison, it is Commerce's practice to use the one-year period immediately preceding the initiation of the investigation, rather than the level of pre-order import volumes, as the initiation of an investigation may dampen import volumes and, thus, skew comparison.⁹⁴ Also, when analyzing import volumes for the second and subsequent sunset reviews, Commerce's practice is to compare import volumes during the year preceding initiation of the underlying investigation to import volumes since the issuance of the last continuation notice.⁹⁵

Further, section 752(c)(3) of the Act states that Commerce shall provide to the ITC the magnitude of the margin of dumping likely to prevail if the order were revoked. Generally, Commerce selects the margin(s) from the final determination in the original investigation, as this is the only calculated rate that reflects the behavior of exporters without the discipline of an order

⁸⁹ See Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103-316, vol. 1 (1994) (SAA).

⁹⁰ See H. Rep. No. 103-826, pt. 1 (1994) (House Report).

⁹¹ See S. Rep. No. 103-412 (1994) (Senate Report).

⁹² See SAA at 889 and 890, House Report at 63-64, and Senate Report at 52; and *Policies Regarding the Conduct of Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders*; *Policy Bulletin*, 63 FR 18871, 18872 (April 16, 1998).

⁹³ See SAA, H.R. Rep. No. 103-316, vol. 1 (1994) at 889-90.

⁹⁴ See, e.g., *Stainless Steel Bar from Germany*; *Final Results of the Sunset Review of the Antidumping Duty Order*, 72 FR 56985 (October 5, 2007), and accompanying IDM at Comment 1.

⁹⁵ See *Ferrovanadium from the People's Republic of China and the Republic of South Africa: Final Results of the Expedited Second Sunset Reviews of the Antidumping Duty Orders*, 79 FR 14216 (March 13, 2014), and accompanying IDM at "Discussion of the Issues: Legal Framework."

in place.⁹⁶ However, Commerce may use a rate from a more recent review where the dumping margin increased, as this rate may be more representative of a company's behavior in the absence of an order (e.g., where a company increases dumping to maintain or increase market share with an order in place).⁹⁷ Finally, pursuant to section 752(c)(4)(A) of the Act, a dumping margin of "zero or *de minimis* shall not by itself require" Commerce to determine that revocation of an AD order would not be likely to lead to a continuation or recurrence of sales at LTFV.

In the *Final Modification for Reviews*, Commerce announced that it was modifying its practice in sunset reviews such that it will not rely on weighted-average dumping margins that were calculated using the zeroing methodology found to be inconsistent with the United States' World Trade Organization (WTO) obligations.⁹⁸ Commerce also noted that "*only in the most extraordinary circumstances* will Commerce rely on margins other than those calculated and published in prior determinations."⁹⁹ Commerce also explained that it does not anticipate that it will need to recalculate the dumping margins in sunset determinations apart from the "most extraordinary circumstances" provided for in its regulations.¹⁰⁰

Below we address the comments submitted by the domestic interested party.

VI. DISCUSSION OF THE ISSUES

1. Likelihood of Continuation or Recurrence of Dumping

The domestic interested party contends that, in accordance with sections 751(c)(1) and 752(c)(1)(A) and (B) of the Act, Commerce should find that revoking the *AD Orders* on imports of PRCBs from Indonesia, Malaysia, China, Taiwan, Thailand, and Vietnam would likely lead to the continuation or recurrence of dumping in the United States.¹⁰¹

Citing the *Sunset Policy Bulletin*,¹⁰² the domestic interested party argues that Commerce normally will determine that revocation of an antidumping order or termination of a suspended dumping investigation is likely to lead to continuation or recurrence of dumping where:

- (a) dumping continued at any level above *de minimis* after the issuance of the order or the suspension agreement, as applicable;
- (b) imports of the subject merchandise ceased after issuance of the order or the suspension agreement, as applicable; or

⁹⁶ See SAA at 890; see also, e.g., *Persulfates from the People's Republic of China: Notice of Final Results of Expedited Second Sunset Review of Antidumping Duty Order*, 73 FR 11868 (March 5, 2008), and accompanying IDM at Comment 2.

⁹⁷ See SAA at 890-91.

⁹⁸ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings: Final Modification*, 77 FR 8101, 8103 (February 14, 2012) (*Final Modification for Reviews*).

⁹⁹ *Id.* (emphasis added).

¹⁰⁰ *Id.*

¹⁰¹ See Indonesia Substantive Response at 4; Malaysia Substantive Response at 4; China Substantive Response at 4; Taiwan Substantive Response at 4; Thailand Substantive Response at 4; and Vietnam Substantive Response at 4.

¹⁰² See *Policies Regarding the Conduct Of Five-Year ("Sunset") Reviews Of Antidumping And Countervailing Duty Orders*; *Policy Bulletin* 98.3, 63 FR 18871 (April 16, 1998) (*Sunset Policy Bulletin*).

(c) dumping was eliminated after the issuance of the order or the suspension agreement, as applicable, and import volumes for the subject merchandise declined significantly.¹⁰³

The domestic interested party contends that an affirmative determination of continuation or recurrence is warranted because dumping continued at above *de minimis* rates after the issuance of the orders with respect to Indonesia, Malaysia, China, Taiwan, Thailand, and Vietnam.¹⁰⁴ Alternatively, the domestic interested party argues an affirmative determination of continuation or recurrence is warranted with respect to Malaysia, Taiwan, and Vietnam because imports from these countries declined precipitously following issuance of their respective orders,¹⁰⁵ and with respect to Malaysia and Indonesia because subject imports either ceased altogether or declined significantly since the original investigations.¹⁰⁶

Commerce's Position: Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (URAA), specifically the SAA, the House Report and the Senate Report, Commerce's determination of likelihood of continuation or recurrence will be made on an order-wide basis for each case.¹⁰⁷ In addition, Commerce will normally determine that revocation of an AD order is likely to lead to continuation or recurrence of dumping where: (a) dumping continued at any level above *de minimis* after the issuance of the order; (b) imports of the subject merchandise ceased after the issuance of the order; or (c) dumping was eliminated after the issuance of an order and import volumes for the subject merchandise declined significantly.¹⁰⁸ Further, when determining whether revocation of the order would be likely to lead to continuation of dumping, sections 752(c)(1)(A) and (B) of the Act instruct Commerce to consider: (1) the weighted-average dumping margins determined in the investigation and subsequent reviews; and (2) the volume of imports of the subject merchandise for the period before and after the issuance of the AD order. Thus, one consideration is whether Commerce continued to find dumping above *de minimis* levels in administrative reviews subsequent to imposition of the order.¹⁰⁹ According to the SAA and the House Report, "if companies continue to dump with the discipline of an order in place, it is reasonable to assume that dumping would continue if the discipline were removed."¹¹⁰ For the reasons discussed below, we find that revocation of the *AD Orders* on PRCBs from Indonesia, Malaysia, China, Taiwan, Thailand, and Vietnam would be likely to lead to the continuation or recurrence of dumping in the United States.

Pursuant to section 752(c)(1)(A) of the Act, Commerce first considered the weighted-average dumping margins determined in the respective investigations and subsequent proceedings. In the reviews for Indonesia, Taiwan, and Vietnam, we examined import volumes in 2008 (the year prior to those investigations) as compared to import volumes during this sunset review

¹⁰³ See Indonesia Substantive Response at 4; Malaysia Substantive Response at 4; China Substantive Response at 4; Taiwan Substantive Response at 4; Thailand Substantive Response at 4; and Vietnam Substantive Response at 4.

¹⁰⁴ *Id.*

¹⁰⁵ See Malaysia Substantive Response at 6-7; Taiwan Substantive Response at 5; and Vietnam Substantive Response at 5.

¹⁰⁶ See Malaysia Substantive Response at 6-7; see also Indonesia Substantive Response at 5.

¹⁰⁷ See SAA at 879; see also House Report at 56.

¹⁰⁸ See SAA at 889-890; see also House Report at 63-64; and Senate Report at 52.

¹⁰⁹ See SAA at 890.

¹¹⁰ *Id.*; see also House Report at 63-64.

period (*i.e.*, 2016- 2020). As discussed below, Commerce examined import volume data submitted by the domestic interested party. Furthermore, where necessary, Commerce examined the weighted-average dumping margins in effect to determine whether dumping continued at above de minimis levels during this sunset period. As noted above, in accordance with the *Final Modification for Reviews*, Commerce will not rely on weighted-average dumping margins that were calculated using the zeroing methodology found to be inconsistent with the United States' World Trade Organization (WTO) obligations.

With respect to the reviews for Malaysia, China, and Thailand, the base period would have been 2002 (the year prior to those investigations). However, the HTSUS subheading for subject merchandise did not come into existence until July 2005.¹¹¹ As a result it is not feasible to determine the trend in import volumes from the base period through the sunset review period.

Indonesia

Our review of the available data indicates that imports of the subject merchandise from Indonesia dropped significantly, such that the year with the largest volume of imports during the sunset review period (2017, with 685 kilograms imported) was less than .05 percent of the 2008 volume.¹¹²

Moreover, there have been no reviews of the Indonesia order, so the above *de minimis* dumping margins established in the investigation are still in effect.¹¹³ As stated in the *Final Modification for Reviews*, “{i}f the dumping margins determined in a manner not found to be WTO-inconsistent in these disputes indicate that dumping continued with the discipline of the order in place, those dumping margins alone can form the basis for a determination that dumping will continue or recur if the order were to be revoked.”¹¹⁴ Here, the dumping margins established for the respondents were calculated either using the average-to-average methodology or total AFA; thus, all margins were calculated without zeroing.¹¹⁵

Thus, given the continued existence of dumping margins and the virtual cessation in import volumes since the issuance of the order, Commerce determines that dumping would be likely to continue or recur if the Indonesia order were revoked.

Malaysia

As described above, because the HTSUS subheading for subject merchandise did not come into existence until July 2005, it is not feasible to determine the trend in import volumes from the period before through the period after issuance of the order.

¹¹¹ See, *e.g.*, *Polyethylene Retail Carrier Bags from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 72 FR 12762, 12763 n.9 (March 19, 2007).

¹¹² See Indonesia Substantive Response at 6. Indonesian PRCBs imports in kg: 2008 – 2,819,569; 2016 – 23; 2017 – 685; 2018 – 75; 2019 – 262; 2020 – 190.

¹¹³ See *Indonesia LTFV Final*.

¹¹⁴ See *Final Modification for Reviews*.

¹¹⁵ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin During an Antidumping Investigation; Final Modification*, 71 FR 77722 (December 27, 2006).

It is Commerce's practice to make an affirmative finding in sunset reviews where, pursuant to the SAA, dumping continued after issuance of the order.¹¹⁶ The rates we calculated for Teong Chuan Plastic and Timber Sdn. Bhd., Brandpak Industries Sdn. Bhd., Gants Pac Industries, Sido Bangun Sdn. Bhd., and Zhin Hin/Chin Hin Plastic Manufacturer Sdn. Bhd. were based on total AFA and did not involve zeroing.¹¹⁷ We have not conducted administrative reviews of any of these companies since the investigation. In the most recent administrative review, we determined a zero margin for one exporter, Euro SME Sdn Bhd.¹¹⁸ However, given the continued existence of dumping margins and because no party argued or submitted any evidence to the contrary, Commerce determines that dumping is likely to continue if the order was revoked.

China

As described above, because the HTSUS subheading for subject merchandise did not come into existence until July 2005, it is not feasible to determine the trend in import volumes from the period before through the period after issuance of the order.

It is Commerce's practice to make an affirmative finding in sunset reviews where, pursuant to the SAA, dumping continued after issuance of the order.¹¹⁹ The rate we calculated for the single China-wide entity was based on total AFA and did not involve zeroing.¹²⁰ We have not conducted any administrative reviews of the single China-wide entity since the investigation. Thus, given the continued existence of a dumping margin that did not involve zeroing and because no party argued or submitted any evidence to the contrary, Commerce determines that dumping is likely to continue if the order was revoked.

¹¹⁶ See SAA at 890; see also, e.g., *Malleable Cast Iron Pipe Fittings from the People's Republic of China: Final Results of Expedited Sunset Review of Antidumping Duty Order*, 74 FR 10239 (March 10, 2009), and accompanying IDM at Comment 1; and *Freshwater Crawfish Tail Meat from the People's Republic of China: Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order*, 73 FR 65832 (November 5, 2008), and accompanying IDM at Comment 1.

¹¹⁷ See *Malaysia LTFV Final*. We excluded Bee Lian Plastic Industries Sdn. Bhd. from the order because we calculated a *de minimis* rate for this company.

¹¹⁸ See *Malaysia 2018-2019 Final Results*.

¹¹⁹ See SAA at 890; see also, e.g., *Malleable Cast Iron Pipe Fittings from the People's Republic of China: Final Results of Expedited Sunset Review of Antidumping Duty Order*, 74 FR 10239 (March 10, 2009), and accompanying IDM at Comment 1; and *Freshwater Crawfish Tail Meat from the People's Republic of China: Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order*, 73 FR 65832 (November 5, 2008), and accompanying IDM at Comment 1.

¹²⁰ See *Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Polyethylene Retail Carrier Bags from the People's Republic of China*, 69 FR 3544, 3548-9 (January 26, 2004), unchanged in *China LTFV Final*.

Taiwan

Our review of the available data indicates that imports of the subject merchandise from Taiwan dropped significantly, such that the year with the largest volume of imports during the sunset review period (2016, with 107,648 kg imported) was less than 2.4 percent of the 2008 volume.¹²¹

Moreover, there have been no reviews of the Taiwan order, so the above *de minimis* dumping margins established in the investigation are still in effect.¹²² As stated in the *Final Modification for Reviews*, “{i}f the dumping margins determined in a manner not found to be WTO-inconsistent in these disputes indicate that dumping continued with the discipline of the order in place, those dumping margins alone can form the basis for a determination that dumping will continue or recur if the order were to be revoked.”¹²³ Here, the rate we calculated for Ipsido Corporation was based on total AFA and did not involve zeroing.¹²⁴

Thus, given the continued existence of a dumping margin without zeroing and the virtual cessation in import volumes since the issuance of the order, as well as the fact that no party argued or submitted any evidence to the contrary, Commerce determines that dumping would be likely to continue or recur if the Taiwan order was revoked.

Thailand

As described above, because the HTSUS subheading for subject merchandise did not come into existence until July 2005, it is not feasible to determine the trend in import volumes from the period before through the period after issuance of the order.

It is Commerce’s practice to make an affirmative finding in sunset reviews where, pursuant to the SAA, dumping continued after issuance of the order.¹²⁵ The rates we calculated for Champion Paper Polybags Ltd. and TRC Polypack in the investigation were based on total AFA and did not involve zeroing.¹²⁶ Commerce did not conduct administrative reviews of either of these companies since the investigation. Moreover, the margins in the most recently completed administrative reviews were based on total AFA and as such, none of these margins involved zeroing.¹²⁷ Thus, given the continued existence of dumping margins and because no party argued or submitted any evidence to the contrary, Commerce determines that dumping is likely to continue if the order was revoked.

¹²¹ See Taiwan substantive response at 6. Taiwanese PRCBs imports in kg: 2008 – 4,575,499; 2016 – 107,648; 2017 – 66,883; 2018 – 29,303; 2019 – 38,394; 2020 – 52,553.

¹²² See *Taiwan LTFV Final*.

¹²³ See *Final Modification for Reviews*.

¹²⁴ See *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin During an Antidumping Investigation; Final Modification*, 71 FR 77722 (December 27, 2006).

¹²⁵ See SAA at 890; see also, e.g., *Malleable Cast Iron Pipe Fittings from the People’s Republic of China: Final Results of Expedited Sunset Review of Antidumping Duty Order*, 74 FR 10239 (March 10, 2009), and accompanying IDM at Comment 1, and *Freshwater Crawfish Tail Meat from the People’s Republic of China: Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order*, 73 FR 65832 (November 5, 2008), and accompanying IDM at Comment 1.

¹²⁶ See *Thailand LTFV Final*.

¹²⁷ See *Thailand 2013-2014 Final Results; Thailand 2014-2015 Final Results*; see also *Thailand 2015-2016 Final Results*.

Vietnam

Our review of the available data indicates that imports of the subject merchandise from Vietnam dropped significantly, such that the year with the largest volume of imports during the sunset review period (2020, with 238,952 kg imported) was less than 3.4 percent of their 2008 volume.¹²⁸

Moreover, there have been no reviews of the Vietnam order, so the above *de minimis* dumping margins established in the investigation are still in effect.¹²⁹ As stated in the *Final Modification for Reviews*, “{i}f the dumping margins determined in a manner not found to be WTO-inconsistent in these disputes indicate that dumping continued with the discipline of the order in place, those dumping margins alone can form the basis for a determination that dumping will continue or recur if the order were to be revoked.”¹³⁰ Here, the dumping margins established for the respondents were all based on total AFA and did not involve zeroing.¹³¹

Thus, given the continued existence of dumping margins and the virtual cessation in import volumes since the issuance of the order, Commerce determines that dumping would be likely to continue or recur if the Vietnam order was revoked.

2. Magnitude of the Margins Likely to Prevail

For Indonesia, Malaysia, China, Taiwan, Thailand, and Vietnam, the domestic interested party argues that the original dumping margins represent the best evidence of exporters’ behavior in the absence of an order and that Commerce should find that the likely dumping margins in the event of revocation are those set forth in the AD orders.¹³²

Commerce’s Position: Section 752(c)(3) of the Act provides that the administering authority shall provide to the ITC the magnitude of the margin of dumping that is likely to prevail if the order were revoked.¹³³

Commerce prefers selecting a margin from the investigation because such rates are the only calculated rates that reflect the behavior of manufacturers, producers, and exporters without the discipline of a finding/order or suspension agreement in place.¹³⁴ Under certain circumstances,

¹²⁸ See Vietnam Substantive Response 6. Vietnamese PRCBs imports in kg: 2008 – 7,192,325; 2016 – 53,953; 2017 – 5,227; 2018 – 16,731; 2019 – 135,356; 2020 – 238,952.

¹²⁹ See Vietnam LTFV Final.

¹³⁰ See *Final Modification for Reviews*.

¹³¹ See Vietnam LTFV Final.

¹³² See Indonesia Substantive Response at 6; Malaysia Substantive Response at 8; China Substantive Response at 7; Taiwan substantive response at 6-7; Thailand Substantive Response at 6; and Vietnam Substantive Response at 6-7.

¹³³ See, e.g., *Certain Hot-Rolled Carbon Steel Flat Products from Argentina, the People’s Republic of China, India, Indonesia, Kazakhstan, Romania, South Africa, Taiwan, Thailand, and Ukraine; Final Results of Expedited Sunset Reviews of the Antidumping Duty Orders*, 71 FR 70506 (December 5, 2006), and accompanying IDM at Comment 2.

¹³⁴ See *Eveready Battery Co. v. United States*, 77 F. Supp. 2d 1327, 1333 (CIT 1999); SAA at 890.

however, Commerce may select a more recently calculated margin to report to the ITC.¹³⁵ As explained above, in accordance with the *Final Modification for Reviews*, Commerce will not rely on weighted-average dumping margins that were calculated using the zeroing methodology.¹³⁶

As discussed above, there are AD margins which were established in the LTFV investigations of each of the *AD Orders* that did not involve zeroing. We find that the AD margins in the LTFV investigations of these orders are probative of the behavior of manufacturers/exporters from these countries if the *AD Orders* were revoked because these margins are the only margins which reflect the behavior of these manufacturers/exporters absent the discipline of the orders. Furthermore, for the reasons described below, we have determined that each of these margins do not involve zeroing.¹³⁷ Thus, Commerce determines that the magnitude of the margin of dumping likely to prevail in the event of revocation of the *AD Orders* would be weighted-average margins up to the following percentages:

- Indonesia: P.T. Sido Bangun Indonesia – 85.17 percent (Does not involve zeroing because it is an AFA rate based on the highest average-to-average comparison margin we found for this company in the preliminary determination).¹³⁸
- Malaysia: Brandpak Industries Sdn. Bhd. – 101.74 percent (Does not involve zeroing because it is an AFA rate based entirely on the highest margin alleged in the petition).¹³⁹
- China: China-Wide Entity – 77.57 percent (Does not involve zeroing because it is an AFA rate based entirely on the highest margin alleged in the petition adjusted using final determination surrogate values).¹⁴⁰
- Taiwan: Ipsido Corporation – 95.81 percent (Does not involve zeroing because it is an AFA rate based entirely on the highest margin alleged in the petition).¹⁴¹
- Thailand: Champion Paper Polybags Ltd. – 122.88 percent (Does not involve zeroing because it is an AFA rate based entirely on the highest margin alleged in the petition).¹⁴²
- Vietnam: Vietnam-Wide Entity – 76.11 percent (Does not involve zeroing because it is an AFA rate based entirely on the highest margin alleged in the petition).¹⁴³

VII. FINAL RESULTS OF EXPEDITED SUNSET REVIEWS

We determine that revocation of the *AD Orders* on PRCBs from Indonesia, Malaysia, China, Taiwan, Thailand, and Vietnam would be likely to lead to continuation or recurrence of dumping

¹³⁵ See section 752(c)(3) of the Act; see also *Final Results of Full Sunset Review: Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide From the Netherlands*, 65 FR 65294 (November 1, 2000), and accompanying IDM at “Magnitude of the Margin Likely to Prevail,” Comment 3.

¹³⁶ See *Final Modification for Reviews*.

¹³⁷ *Id.*

¹³⁸ See *Indonesia LTFV Final*.

¹³⁹ See *Malaysia LTFV Final*.

¹⁴⁰ See *China LTFV Final*.

¹⁴¹ See *Taiwan LTFV Final*.

¹⁴² See *Thailand LTFV Final*.

¹⁴³ See *Vietnam LTFV Final*.

and that the magnitude of the margin of dumping likely to prevail would be weighted-average margins up to the following percentages:

<u>Country</u>	<u>Weighted-Average Margin (Percent)</u>
Indonesia	85.17
Malaysia	101.74
China	77.57
Taiwan	95.81
Thailand	122.88
Vietnam	76.11

VIII. RECOMENDATION

Based on our analysis of the substantive responses received, we recommend adopting the above positions. If these recommendations are accepted, we will publish these final results of these expedited sunset reviews in the *Federal Register* and notify the ITC of our determination.

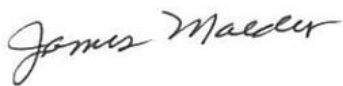


Agree

Disagree

6/25/2021

X



Signed by: JAMES MAEDER

James Maeder
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations