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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-557-813

Polyethylene Retail Carrier Bags from Malaysia: Preliminary Results of Antidumping Duty Administrative Review; 2016-2017

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that Euro SME Sdn Bhd (Euro SME), an exporter of polyethylene retail carrier bags (PRCBs) from Malaysia, did not have shipments of subject merchandise during the August 1, 2016, through July 31, 2017, period of review (POR).

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Alex Rosen, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-7814.

Background

On August 1, 2017, Commerce published a notice of opportunity to request an administrative review of the antidumping duty order on PRCBs from Malaysia for the POR.¹ On October 16, 2017, in response to a timely request from the petitioners,² and in accordance with

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 82 FR 35754 (August 1, 2017).

² See letter from Polyethylene Retail Bags Committee and its individual members Hilex Poly Co., LLC and Superbag Corp. (the petitioners), "Polyethylene Retail Carrier Bags from Malaysia: Request for Administrative Review," dated August 31, 2017.

section 751(a) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213(b), Commerce initiated an administrative review of the antidumping duty order on PRCBs from Malaysia with respect to Euro SME.³ Commerce exercised its discretion to toll deadlines affected by the closure of the Federal Government from January 20 through 22, 2018. If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the preliminary results of this review is now May 7, 2018.⁴ We invite parties to comment on these preliminary results.

Scope of the Order

The merchandise subject to this antidumping duty order 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 (15.24 cm) 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 this antidumping duty order excludes (1) PRCBs that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) PRCBs that are

³ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 82 FR 48051 (October 16, 2017).

⁴ See memorandum to the record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government," dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

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 this antidumping duty order 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 this antidumping duty order. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this antidumping duty order is dispositive.

Preliminary Determination of No Shipments

We received a timely submission from Euro SME certifying that it did not have sales, shipments, or exports of subject merchandise to the United States during the POR.⁵ On January 10, 2018, Commerce requested entry data from U.S. Customs and Border Protection (CBP) for subject merchandise exported by Euro SME and imported into the United States during the POR. This query returned no entries during the POR.⁶ Additionally, in order to examine Euro SME's claim, we sent a "no-shipments" inquiry to CBP requesting that any CBP officer alert Commerce if he/she had information contrary to these no-shipments claims.⁷ On January 11, 2018, Commerce was notified by CBP that there were no shipments of PRCBs from Malaysia during the POR.⁸ Consistent with our practice, we preliminarily determine that Euro SME had no shipments during the POR. Further, we find it is not appropriate to rescind the review with

⁵ See letter from Euro SME, "Polyethylene Retail Carrier Bags from Malaysia; No Shipment Certification," dated November 14, 2017.

⁶ See Commerce's memorandum to the file, "U.S. Customs and Border Protection Data," dated January 12, 2018.

⁷ See CBP message 8011306, dated January 11, 2018.

⁸ See Commerce's memorandum to the file, "U.S. Customs and Border Protection – No Shipment Inquiry Data," dated February 6, 2018.

respect to Euro SME but, rather, to complete the review and issue appropriate instructions to CBP based on the final results of the review, consistent with our practice.⁹

Public Comment

Interested parties may submit case briefs no later than 30 days after the date of publication of this notice in the *Federal Register*.¹⁰ Rebuttal comments to case briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the date for filing case briefs.¹¹ Parties who submit arguments in this proceeding are requested to submit with each argument: (a) a statement of the issue, (b) a brief summary of the argument, and (c) a table of authorities.¹² Parties submitting briefs should do so pursuant to Commerce's electronic filing system: Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).¹³ ACCESS is available to registered users at <https://access.trade.gov>, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days of the date of publication of this notice. Hearing requests should contain the following information: (1) the party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. If a request for a hearing

⁹ See, e.g., *Certain Frozen Warmwater Shrimp from Thailand; Preliminary Results of Antidumping Duty Administrative Review, Partial Rescission of Review, Preliminary Determination of No Shipments; 2012-2013*, 79 FR 15951, 15952 (March 24, 2014), unchanged in *Certain Frozen Warmwater Shrimp from Thailand: Final Results of Antidumping Duty Administrative Review, Final Determination of No Shipments, and Partial Rescission of Review; 2012-2013*, 79 FR 51306 (August 28, 2014).

¹⁰ See 19 CFR 351.309(c)(1)(ii).

¹¹ See 19 CFR 351.309(d)(1)(2).

¹² See 19 CFR 351.309(c)(2), (d)(2).

¹³ See 19 CFR 351.303 (for general filing requirements).

is made, parties will be notified of the time and date of the hearing which will be held at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

Unless extended, we intend to issue the final results of this administrative review, including our analysis of all issues raised in any written brief, not later than 120 days of publication of this notice in the *Federal Register*, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, Commerce will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.¹⁴ In accordance with Commerce's practice, for entries of subject merchandise during the POR for which Euro SME did not know that the merchandise was destined for the United States, we will instruct CBP to liquidate such entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction¹⁵ We intend to issue assessment instructions to CBP 15 days after the publication date of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of review, as provided for by section 751(a)(2)(C) of the Act: (1) for Euro SME, which claimed no shipments, the cash deposit rate will remain unchanged from the rate assigned to Euro SME in the most recently completed review of the company; (2) for previously investigated or reviewed companies, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a

¹⁴ See 19 CFR 351.212(b).

¹⁵ See *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

prior review, or the less-than-fair-value investigation, but the producer is, the cash deposit rate will be the rate established for the most recent period for the producer of the merchandise; and (4) the cash deposit rate for all other producers or exporters is 2.40 percent. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period. Failure to comply with this requirement may result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice is issued in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Gary Taverman
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance

Dated: March 13, 2018
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