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January 22, 2015

MEMORANDUM TO: Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

FROM: Christian Marsh   
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations

RE: Laminated Woven Sacks from the People's Republic of China  
("PRC"): Decision Memorandum for the Preliminary Results of  
the 2013-2014 Administrative Review

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### Summary

In response to a request from the Laminated Woven Sacks Committee ("Petitioner"), the Department of Commerce ("the Department") initiated an administrative review of the antidumping duty ("AD") order on laminated woven sacks from the People's Republic of China ("PRC") covering nine firms<sup>1</sup> for the period of review ("POR") August 1, 2013, through July 31, 2014.<sup>2</sup> As none of the nine companies initiated for review provided the Department with either a "no shipment" certification or evidence demonstrating their eligibility for a separate rate, we preliminarily determine that the nine companies are part of the PRC-wide entity.

If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection ("CBP") to assess ADs on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results. We will issue final results no later than 120 days from the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the "Act").

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<sup>1</sup> Those nine companies are: Changle Baodu Plastic Co., Ltd., Shangdong Qikai Plastics Product Co., Ltd., Wenzhou Hotsun Plastics Co., Ltd., Zibo Aifudi Plastic Packaging Co., Ltd., Zibo Linzi Luitong Plastic Fabric Co., Ltd., Zibo Linzi Shuaiqiang Plastics Co., Ltd., Zibo Linzi Qitianli Plastic Fabric Co., Ltd., Zibo Linzi Worun Packing Product Co., Ltd., and Zibo Qigao Plastic Cement Co., Ltd.

<sup>2</sup> See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation, in Part, 79 FR 58729 (September 30, 2014) ("Initiation Notice").



## **Background**

On September 30, 2014, the Department initiated an administrative review with respect to nine firms for which we received a timely request<sup>3</sup> for an administrative review. Although our review of the CBP database showed no entries of laminated woven sacks originating in the PRC, subject to AD/countervailing duties (“CVD”) (“Type 3” entries), during the POR covering those nine firms for which we initiated the review,<sup>4</sup> none of the nine companies initiated for review certified that they had “no shipments” during the POR. Further, none of these nine companies filed separate rate certifications or applications to establish eligibility for a separate rate.

## **Scope of the Order**

The merchandise covered by the order is laminated woven sacks. Laminated woven sacks are bags or sacks consisting of one or more plies of fabric consisting of woven polypropylene strip and/or woven polyethylene strip, regardless of the width of the strip; with or without an extrusion coating of polypropylene and/or polyethylene on one or both sides of the fabric; laminated by any method either to an exterior ply of plastic film such as biaxially-oriented polypropylene (“BOPP”) or to an exterior ply of paper that is suitable for high quality print graphics;<sup>5</sup> printed with three colors or more in register; with or without lining; whether or not closed on one end; whether or not in roll form (including sheets, lay-flat tubing, and sleeves); with or without handles; with or without special closing features; not exceeding one kilogram in weight. Laminated woven sacks are typically used for retail packaging of consumer goods such as pet foods and bird seed.

Effective July 1, 2007, laminated woven sacks are classifiable under Harmonized Tariff Schedule of the United States (“HTSUS”) subheadings 6305.33.0050 and 6305.33.0080. Laminated woven sacks were previously classifiable under HTSUS subheading 6305.33.0020. If entered with plastic coating on both sides of the fabric consisting of woven polypropylene strip and/or woven polyethylene strip, laminated woven sacks may be classifiable under HTSUS subheadings 3923.21.0080, 3923.21.0095, and 3923.29.0000. If entered not closed on one end or in roll form (including sheets, lay-flat tubing, and sleeves), laminated woven sacks may be classifiable under other HTSUS subheadings including 3917.39.0050, 3921.90.1100, 3921.90.1500, and 5903.90.2500. If the polypropylene strips and/or polyethylene strips making up the fabric measure more than 5 millimeters in width, laminated woven sacks may be classifiable under other HTSUS subheadings including 4601.99.0500, 4601.99.9000, and

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<sup>3</sup> See August 29, 2014, Request for Administrative Review filed by the Laminated Woven Sacks Committee (“Petitioner”).

<sup>4</sup> See “Memorandum to the File, from Irene Gorelik, Analyst, re: Release of Customs and Border Protection (“CBP”) Data,” dated October 2, 2014 (“CBP Entry Memo”).

<sup>5</sup> “Paper suitable for high quality print graphics,” as used herein, means paper having an ISO brightness of 82 or higher and a Sheffield Smoothness of 250 or less. Coated free sheet is an example of a paper suitable for high quality print graphics.

4602.90.0000.<sup>6</sup> Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the order is dispositive.

### Discussion of Methodology

All companies within the PRC are considered to be subject to government control unless they are able to demonstrate an absence of government control with respect to their export activities. Such companies are thus assigned a single AD rate distinct from the separate rate(s) determined for companies that are found to be independent of government control with respect to their export activities. We consider the influence that the government has been found to have over the economy to warrant determining a rate for the entity that is distinct from the rates found for companies that have provided sufficient evidence to establish that they operate freely with respect to their export activities.<sup>7</sup>

Upon initiation of the administrative review, we provided the opportunity for all companies upon which the review was initiated to submit either a “no shipment” certification or the separate rate application or certification.<sup>8</sup> Of the nine companies under review, eight companies had a separate rate from a prior segment,<sup>9</sup> but they did not file a “no shipment” certification or a separate rate certification on the record of this review.<sup>10</sup> Consequently, these eight companies have not provided any documentation supporting their continued eligibility for a separate rate. The ninth company for which a review was initiated (Zibo Aifudi Plastic Packaging Co., Ltd.), which did not have a separate rate from a prior segment of the proceeding, neither established its eligibility for a separate rate through a separate rate application nor filed a “no shipment” certification.

In light of these facts, and consistent with the Department’s change in practice regarding

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<sup>6</sup> At the request of CBP, the Department added the USHTS subheading 6305.33.0040 to the ACE CRF for the antidumping duty order. See “Memorandum to the File, from Irene Gorelik, Analyst, re: Addition of U.S. Harmonized Tariff Schedule (“USHTS”) Numbers to the Automated Commercial Enterprise (“ACE”) Case Reference File (“CRF”),” dated September 25, 2014.

<sup>7</sup> See Notice of Final Determination of Sales at Less than Fair Value, and Affirmative Critical Circumstances, In Part: Certain Lined Paper Products From the People’s Republic of China, 71 FR 53079, 53080 (September 8, 2006).

<sup>8</sup> See Initiation Notice, 79 FR at 58729-58730.

<sup>9</sup> These eight companies are: Changle Baodu Plastic Co., Ltd., Shangdong Qikai Plastics Product Co., Ltd., Wenzhou Hotsun Plastics Co., Ltd., Zibo Linzi Luitong Plastic Fabric Co., Ltd., Zibo Linzi Shuaiqiang Plastics Co., Ltd., Zibo Linzi Qitianli Plastic Fabric Co., Ltd., Zibo Linzi Worun Packing Product Co., Ltd., and Zibo Qigao Plastic Cement Co., Ltd. See Laminated Woven Sacks from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances, 73 FR 35646, 35648 (June 24, 2008).

<sup>10</sup> The Department notes that a company’s eligibility for a separate rate necessarily requires reviewable entries from that company during the relevant period. See Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review, 2011-2012, 78 FR 56211 (September 12, 2013) and accompanying Issues and Decision Memorandum at Comment 11, where the Department stated that “a company that did not export subject merchandise to the United States during the relevant period is likewise not eligible for a separate rate, because it has no reviewable POR entries and, thus, is not subject to the review (including the determination of a separate rate status);” see also Policy Bulletin 5.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries, dated April 5, 2005, found at: <http://enforcement.trade.gov/policy/bull05-1.pdf>; Separate Rate Certification at page 2, found at: <http://enforcement.trade.gov/nme/sep-rate-files/20121031/srv-sr-cert-20121031.pdf>.

conditional review of the PRC-wide entity,<sup>11</sup> we preliminarily determine that these nine companies are to be considered part of the PRC-wide entity. Under this practice, the PRC-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the PRC-wide entity, the entity is not under review and the entity's rate is not subject to change. Therefore if our determination is unchanged in the final results, entries for these nine companies will be liquidated at the rate previously established for the PRC-wide entity.<sup>12</sup>

**Recommendation**

We recommend adopting the above determination preliminarily finding that the nine companies subject to the review are part of the PRC-wide entity.

Agree       Disagree

  
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Paul Piquado  
Assistant Secretary  
for Enforcement and Compliance

22 JANUARY 2015  
\_\_\_\_\_  
(Date)

<sup>11</sup> See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings, 78 FR 65963, 65970 (November 4, 2013).

<sup>12</sup> The Department conducted a proceeding pursuant to section 129 of the Uruguay Round Agreements Act regarding the AD and CVD investigations of laminated woven sacks. Based on certain adjustments pursuant to section 777A(f) of the Act, the Department revised the PRC-wide entity rate from 91.73 percent to 47.64 percent. See Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act: Certain New Pneumatic Off-the-Road Tires; Circular Welded Carbon Quality Steel Pipe; Laminated Woven Sacks; and Light-Walled Rectangular Pipe and Tube From the People's Republic of China, 77 FR 52683, 52688 (August 30, 2012). Thus, the current applicable rate for the PRC-wide entity, as established in a prior segment of the proceeding, is 47.64 percent.