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DEPARTMENT OF COMMERCE

International Trade Administration

C-570-015

Countervailing Duty Investigation of 53-Foot Domestic Dry Containers from the People's Republic of China: Preliminary Determination and Alignment of Final Determination with Final Antidumping Duty Determination

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

SUMMARY: The Department of Commerce (the "Department") preliminarily determines that countervailable subsidies are being provided to producers and exporters of 53-foot domestic dry containers ("domestic dry containers") from the People's Republic of China (the "PRC"). We invite interested parties to comment on this preliminary determination.

DATES: Effective Date: Insert date of publication in the *Federal Register*.

FOR FURTHER INFORMATION CONTACT: Yasmin Nair, David Cordell or Ilissa Shefferman, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone 202.482.3813, 202.482.0408 or 202.482.4684, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Investigation

The merchandise subject to investigation is closed (*i.e.*, not open top) van containers exceeding 14.63 meters (48 feet) but generally measuring 16.154 meters (53 feet) in exterior length, which are designed for the intermodal transport¹ of goods other than bulk liquids within North America

¹ "Intermodal transport" refers to a movement of freight using more than one mode of transportation, most commonly on a container chassis for on-the-road transportation and on a rail car for rail transportation.

primarily by rail or by road vehicle, or by a combination of rail and road vehicle (domestic containers). The merchandise is known in the industry by varying terms including “53-foot containers,” “53-foot dry containers,” “53-foot domestic dry containers,” “domestic dry containers” and “domestic containers.” Imports of the subject merchandise are provided for under subheading 8609.00.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Imports of the subject merchandise which meet the definition of and requirements for “instruments of international traffic” pursuant to 19 U.S.C. §1322 and 19 C.F.R. §10.41a may be classified under subheading 9803.00.50, HTSUS. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the subject merchandise is dispositive. For a complete description of the scope of this investigation, *see* the Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Paul Piquado, Assistant Secretary for Enforcement and Compliance, “Countervailing Duty Investigation of 53-Foot Domestic Dry Containers from the People’s Republic of China: Decision Memorandum for the Preliminary Determination,” dated concurrently with, and hereby adopted by, this notice (“Preliminary Decision Memo”).

Methodology

The Department is conducting this countervailing duty (“CVD”) investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the “Act”). For each of the subsidy programs found countervailable, we preliminarily determine that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.² For a full description of the methodology underlying our preliminary conclusions, see the Preliminary Decision Memo. The Preliminary Decision Memo is a public

² *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

document and is on file electronically *via* Enforcement and Compliance’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”). IA ACCESS is available to registered users at <http://iaaccess.trade.gov>, and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memo can be accessed directly at <http://trade.gov/enforcement>. The signed Preliminary Decision Memo and the electronic versions of the Preliminary Decision Memo are identical in content.

The Department notes that, in making these findings, we relied, in part, on facts available and, because one or more respondents did not act to the best of their ability to respond to the Department’s requests for information, we drew an adverse inference where appropriate in selecting from among the facts otherwise available.³ For further information, see “Use of Facts Otherwise Available and Adverse Inferences” in the Preliminary Decision Memo.

Alignment

As noted in the Preliminary Decision Memo, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), we are aligning the final CVD determination in this investigation with the final determination in the companion antidumping duty (“AD”) investigation of domestic dry containers from the PRC based on a request made by the petitioner. Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than February 2, 2015, unless postponed.

³ See sections 776(a) and (b) of the Act.

Preliminary Determination and Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated an individual rate for each exporter/producer of the subject merchandise individually investigated. We preliminarily determine the countervailable subsidy rates to be:

Exporter/Producer	Subsidy Rate
CIMC International Marine Containers (Group) Co., Ltd. (CIMC Group); CIMC Containers Holding Co., Ltd. (CIMC Holding); CIMC Wood Development Co., Ltd. (CIMC Wood); Guangdong Xinhui CIMC Special Transportation Equipment Co., Ltd. (Xinhui Special); Qingdao CIMC Containers Manufacture Co., Ltd. (Qingdao CIMC); Nantong CIMC-Special Transportation Equipment Manufacture Co., Ltd. (Nantong CIMC); Xinhui CIMC Container Co., Ltd. (Xinhui Container); and Xinhui CIMC Wood Co., Ltd. (Xinhui Wood) (collectively, "CIMC")	10.46%
Hui Zhou Pacific Container Co., Ltd.; Qingdao Pacific Container Co., Ltd.; and Qidong Singamas Energy Equipment Co., Ltd. (collectively, "Singamas")	7.13%
All-Others	8.79%

In accordance with sections 703(d)(1)(B) and (d)(2) of the Act, we are directing U.S. Customs and Border Protection to suspend liquidation of all entries of domestic dry containers from the PRC that are entered, or withdrawn from warehouse, for consumption on or after the date of the publication of this notice in the *Federal Register*, and to require a cash deposit for such entries of merchandise in the amounts indicated above.

In accordance with sections 703(d) and 705(c)(5)(A) of the Act, for companies not investigated, we apply an "all-others rate", which is normally calculated by weighting the subsidy rates of the individual companies selected as respondents by those companies' exports of the subject merchandise to the United States. Notwithstanding the language of section 705(c)(5)(A)(i) of the Act, we have not calculated the "all-others" rate by weight averaging the rates of the two individually investigated respondents, because doing so risks disclosure of

proprietary information. Therefore, for the “all-others” rate, we calculated a simple average of the two responding firms’ rates.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information submitted by the respondents prior to making our final determination.

Disclosure and Public Comment

The Department will disclose calculations performed for this preliminary determination to the parties within five days of the date of public announcement of this determination in accordance with 19 CFR 351.224(b). Case briefs or other written comments for all non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.⁴ A table of contents, list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using IA ACCESS. An electronically filed request for a hearing must be received successfully in its entirety by the Department’s electronic records system, IA ACCESS, by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.⁵ Requests should contain the party’s name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a

⁴ See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

⁵ See 19 CFR 351.310(c).

hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a date and time to be determined. Parties will be notified of the date and time of any hearing. The hearing will be limited to issues raised in the respective briefs.⁶

International Trade Commission Notification

In accordance with section 703(f) of the Act, we will notify the International Trade Commission (“ITC”) of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance.

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Date: September 22, 2014

⁶ *Id.*

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Appendix

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