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DEPARTMENT OF COMMERCE

International Trade Administration

[A-471-807]

Certain Uncoated Paper from Portugal: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances

AGENCY: Enforcement and Compliance, International Trade Administration, Commerce.

SUMMARY: The Department of Commerce (“the Department”) determines that certain uncoated paper (“uncoated paper”) from Portugal is being, or is likely to be, sold in the United States at less than fair value (“LTFV”), as provided in section 735(a) of the Tariff Act of 1930, as amended (“the Act”). The period of investigation (“POI”) is January 1, 2014, through December 31, 2014. The final dumping margins of sales at LTFV are listed below in the “Final Determination” section of this notice.

DATES: *Effective:* [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Kabir Archuletta, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2593.

SUPPLEMENTARY INFORMATION:

Background

On August 26, 2015, the Department published the Preliminary Determination of this antidumping duty (“AD”) investigation.¹ The following events occurred since the Preliminary Determination was issued.

¹ See Certain Uncoated Paper From Portugal: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination, 80 FR 51777 (August 26, 2015) (“Preliminary Determination”).

Between September and December 2015, the Department received supplemental questionnaire responses and revised databases from Portucel S.A. (“Portucel”), the sole mandatory respondent in this investigation.

On December 4, 2015, Petitioners² and Portucel submitted properly filed case briefs.³ On December 9, 2015, Petitioners and Portucel submitted properly filed rebuttal briefs.⁴

Scope of the Investigation and Scope Comments

The product covered by this investigation is uncoated paper from Portugal. For a complete description of the scope of the investigation, see the “Scope of the Investigation,” in Appendix I of this notice, which incorporates changes made subsequent to the Preliminary Determination.

On October 2, 2015, Gartner Studios submitted a case brief regarding the scope of the investigations. On October 19, 2015, American Greetings Corporation (“American Greetings”) submitted a case brief regarding the scope of the investigations.⁵ On October 29, 2015, Petitioners submitted a rebuttal brief regarding the scope of the investigations.⁶ The Department is issuing a scope comments decision memorandum for the final determinations of the AD and countervailing duty investigations of uncoated paper, which is incorporated by reference in, and

² Petitioners are United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union; Domtar Corporation; Finch Paper LLC; P.H. Glatfelter Company; and Packaging Corporation of America.

³ See Letter to the Secretary of Commerce from Petitioners “Case Brief Submitted on behalf of Petitioners” (December 7, 2015, 2015) (“Petitioners’ Case Brief”); Letter to the Secretary of Commerce from Portucel “Case Brief of Portucel, S.A. and Portucel Soporcel N.A.” (December 4, 2015) (“Portucel’s Case Brief”).

⁴ See Letter to the Secretary of Commerce from Petitioners “Rebuttal Brief Submitted on behalf of Petitioners” (December 9, 2015) (“Petitioners’ Rebuttal Brief”); Letter to the Secretary of Commerce from Portucel “Portucel’s Rebuttal Brief” (December 1, 2015) (“Portucel’s Rebuttal Brief”).

⁵ See Letter to the Secretary of Commerce from American Greetings “Certain Uncoated Paper From Australia, Brazil, The People’s Republic of China, Indonesia, and Portugal: Case Brief of American Greetings Corporation” (October 19, 2015).

⁶ See Letter to the Secretary of Commerce from Petitioners “Certain Uncoated Paper From Australia, Brazil, The People’s Republic of China, Indonesia, and Portugal: Scope Rebuttal Brief” (October 20, 2015).

hereby adopted by, this final determination.⁷ As explained in the Final Scope Decision Memorandum, to facilitate the scope's administrability and enforcement, we have clarified the scope language such that uncoated paper with "final printed content" is excluded from the scope of the investigations.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this investigation are addressed in the Issues and Decision Memorandum, which is hereby adopted by this notice.⁸ A list of the issues raised is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS"). ACCESS is available to registered users at <https://access.trade.gov> and it is available to all parties in the Central Records Unit, room B-8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed and electronic versions of the Issues and Decision Memorandum are identical in content.

Verification

As provided in section 782(i) of the Act, in September and October 2015, the Department verified the sales and cost data reported by Portucel, pursuant to section 782(i) of the Act. We

⁷ See the Department's Memorandum to the File "Less-Than-Fair-Value Investigations of Certain Uncoated Paper from Australia, Brazil, the People's Republic of China, Indonesia, and Portugal; and Countervailing Duty Investigations of Certain Uncoated Paper from the People's Republic of China and Indonesia: Scope Comments Decision Memorandum for the Final Determinations," dated January 8, 2016 ("Final Scope Decision Memorandum").

⁸ See Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations "Issues and Decision Memorandum for the Final Determination of the Antidumping Duty Investigation of Certain Uncoated Paper from Portugal" (January 8, 2016) ("Issues and Decision Memorandum").

used standard verification procedures, including an examination of relevant accounting and production records, and original source documents provided by Portucel.⁹

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made certain changes to the margin calculations for Portucel. For a discussion of these changes, see the “Margin Calculations” section of the Issues and Decision Memorandum. We have also revised the all-others rate.

All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated all-others rate shall be an amount equal to the weighted-average of the estimated weighted-average dumping margins established for exporters and producers individually investigated excluding any zero or de minimis margins, and margins determined entirely under section 776 of the Act. Portucel is the only respondent for which the Department calculated a company-specific rate. Therefore, for purposes of determining the all-others rate and pursuant to section 735(c)(5)(A) of the Act, we are using the dumping margin calculated for Portucel, as referenced in the “Final Determination” section below.

⁹ See Memorandum to the File, through Neal Halper, Office Director, and Taija Slaughter, Lead Accountant, from Stephanie Arthur, Senior Accountant, “Verification of the Cost Response of Portucel S.A. in the Antidumping Duty Investigation of Uncoated Paper from Portugal” (November 12, 2015); Memorandum to the File, through Catherine Bertrand, Program Manager, Office V, from Kabir Archuletta and Frances Veith, Senior International Trade Analysts, “Verification of Home Market Sales of Portucel S.A. (‘Portucel’) in the Antidumping Duty Investigation of Certain Uncoated Paper from Portugal” (November 24, 2015); Memorandum to the File, through Catherine Bertrand, Program Manager, Office V, from Kabir Archuletta and Frances Veith, Senior International Trade Analysts, “Verification of U.S. Sales of Portucel S.A. (‘Portucel’) in the Antidumping Duty Investigation of Certain Uncoated Paper from Portugal” (November 24, 2015).

Final Determination

The Department determines that the final weighted-average dumping margins are as follows:

Exporter/Manufacturer	Weighted-Average Dumping Margin (percent)
Portucel S.A. ¹⁰	7.80
All-Others	7.80

Disclosure

We will disclose the calculations performed to interested parties within five days of the public announcement of this final determination in accordance with 19 CFR 351.224(b).

Final Negative Determination of Critical Circumstances

On November 4, 2015, the Department found that critical circumstances exist with respect to imports of uncoated paper from Portugal from Portucel and all other exporters or producers.¹¹ Based on Portucel's final dumping margin and further analysis following the Preliminary Critical Circumstances Determination, we are modifying our findings for the final determination. For a complete discussion of this issue, see the "Negative Finding of Critical Circumstances" section of the Issues and Decision Memorandum.

¹⁰ In the Preliminary Determination we found that Portucel is affiliated with sales subsidiaries Portucel Soporcel Lusa, Unipessoal, Lda. ("Lusa"), and Portucel Soporcel Fine Paper, S.A. ("Fine Paper"), production subsidiaries About the Future, S.A. ("About the Future"), Portucel Papel Setubal, S.A. ("Setubal"), and Soporcel, Sociedade Portuguesa de Papel, S.A. ("Soporcel") and U.S. subsidiary Portucel Soporcel North America, Inc., pursuant to sections 771(33)(B), (E) and (F) of the Act, and that Portucel, Fine Paper, Lusa, About the Future, Setubal and Soporcel are a single entity for purposes of the Department's analysis in this investigation, in accordance with 19 CFR 351.401(f). See Preliminary Determination and accompanying Decision Memorandum at 4-5; Memorandum to the File from Kabir Archuleta, Senior International Trade Analyst, Office V, through Catherine Bertrand, Program Manager, Office V "Preliminary Affiliation Memorandum" (August 19, 2015). Because no interested parties submitted comments on this issue, the Department's determination remains unchanged for this final determination.

¹¹ See Certain Uncoated Paper From Portugal: Preliminary Affirmative Determination of Critical Circumstances in the Antidumping Duty Investigation, 80 FR 68293, 68294-5 (November 4, 2015) ("Preliminary Critical Circumstances Determination").

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (“CBP”) to continue to suspend liquidation of all appropriate entries of uncoated paper from Portugal, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after August 26, 2015, the date of publication of the Preliminary Determination of this investigation in the Federal Register.

Further, CBP shall require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price, as follows: (1) The rate for Portucel will be the rate we determined in this final determination; (2) if the exporter is not a firm identified in this investigation but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 7.80 percent. These instructions suspending liquidation will remain in effect until further notice.

Because of our negative determination of critical circumstances, we will instruct CBP to refund all cash deposits posted on merchandise under consideration from Portugal entered, or withdrawn from warehouse for consumption, prior to August 26, 2015 (i.e., the date of publication of the Preliminary Determination).

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of the final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of uncoated paper from Portugal no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all cash deposits will be

refunded. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders (“APO”)

This notice serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation subject to sanction.

This determination and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: January 8, 2016.

Paul Piquado,

Assistant Secretary

for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by the investigation includes uncoated paper in sheet form; weighing at least 40 grams per square meter but not more than 150 grams per square meter; that either is a white paper with a GE brightness level¹ of 85 or higher or is a colored paper; whether or not surface-decorated, printed (except as described below), embossed, perforated, or punched; irrespective of the smoothness of the surface; and irrespective of dimensions (“Certain Uncoated Paper”).

Certain Uncoated Paper includes (a) uncoated free sheet paper that meets this scope definition; (b) uncoated ground wood paper produced from bleached chemi-thermo-mechanical pulp (“BCTMP”) that meets this scope definition; and (c) any other uncoated paper that meets this scope definition regardless of the type of pulp used to produce the paper.

Specifically excluded from the scope are (1) paper printed with final content of printed text or graphics and (2) lined paper products, typically school supplies, composed of paper that incorporates straight horizontal and/or vertical lines that would make the paper unsuitable for copying or printing purposes. For purposes of this scope definition, paper shall be considered “printed with final content” where at least one side of the sheet has printed text and/or graphics that cover at least five percent of the surface area of the entire sheet.

Imports of the subject merchandise are provided for under Harmonized Tariff Schedule of the United States (HTSUS) categories 4802.56.1000, 4802.56.2000, 4802.56.3000, 4802.56.4000, 4802.56.6000, 4802.56.7020, 4802.56.7040, 4802.57.1000, 4802.57.2000, 4802.57.3000, and 4802.57.4000. Some imports of subject merchandise may also be classified under 4802.62.1000, 4802.62.2000, 4802.62.3000, 4802.62.5000, 4802.62.6020, 4802.62.6040, 4802.69.1000, 4802.69.2000, 4802.69.3000, 4811.90.8050 and 4811.90.9080. While HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

¹ One of the key measurements of any grade of paper is brightness. Generally speaking, the brighter the paper the better the contrast between the paper and the ink. Brightness is measured using a GE Reflectance Scale, which measures the reflection of light off a grade of paper. One is the lowest reflection, or what would be given to a totally black grade, and 100 is the brightest measured grade. “Colored paper” as used in this scope definition means a paper with a hue other than white that reflects one of the primary colors of magenta, yellow, and cyan (red, yellow, and blue) or a combination of such primary colors.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Margin Calculations
- V. List of Comments
- VI. Discussion of Comments

Comment 1: Water Supplied by Portucel's Affiliated Pulp Mills

Comment 2: Purchases of Eucalyptus Pulp from Affiliates

Comment 3: Critical Circumstances

Comment 4: Advertising Expenses

Comment 5: Insurance Expenses

Comment 6: Other Data Revisions based on Verification Findings

Comment 7: Minor Corrections Presented at Verification

Comment 8: Portucel's Transposition Error

- VII. Negative Finding of Critical Circumstances

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