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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-471-807

Certain Uncoated Paper from Portugal: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review

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

SUMMARY: The Department of Commerce (the “Department”) preliminarily determines that The Navigator Company, S.A. and Navigator Fine Paper, S.A. (collectively “Navigator”) is the successor in interest to Portucel, S.A. and Portucel Soporcel Fine Paper, S.A. (collectively “Portucel”) for purposes of the antidumping duty order on certain uncoated paper from Portugal and, as such, is entitled to Portucel’s cash deposit rate with respect to entries of subject merchandise. Interested parties are invited to comment on these preliminary results.

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

FOR FURTHER INFORMATION CONTACT: Carrie Bethea, 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) 482-1491.

SUPPLEMENTARY INFORMATION:

Background

The Department published the antidumping duty order for certain uncoated paper from Portugal in the Federal Register on March 3, 2016.¹ In the underlying less than fair value

¹ See Certain Uncoated Paper from Australia, Brazil, Indonesia, the People’s Republic of China, and Portugal: Amended Final Affirmative Antidumping Determinations for Brazil and Indonesia and Antidumping Duty Orders.

investigation, the Department collapsed Portucel, S.A. and Portucel Soporcel Fine Paper, S.A. for purposes of antidumping treatment.² On August 26, 2016, the Department received a request on behalf of Navigator for an expedited changed circumstance review (“CCR”) to establish Navigator as the successor-in-interest to Portucel for purposes of the antidumping duty order on certain uncoated paper from Portugal.³ We received no comments opposing Navigator’s request.

Scope of the Order

The merchandise covered by this order 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 level⁴ 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

42 FR 11174 (March 3, 2016) (“Order”).

² 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) (unchanged in final results), Certain Uncoated Paper from Portugal: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances, 81 FR 3105 (January 20, 2016).

³ Letter to the Secretary from Navigator, regarding, “Certain Uncoated Paper from Portugal: Request for Changed Circumstances Review,” dated August 26, 2016 (“CCR Request”).

⁴ 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.

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.

The product is currently classified 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.

Initiation of Changed Circumstances Review

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (“the Act”) and 19 CFR 351.216(c)-(d), the Department will only conduct a changed circumstances review less than 24 months after the date of publication of the final determination with good cause and upon receipt of information concerning, or a request from an interested party for a review of, an antidumping duty finding which shows changed circumstances sufficient to warrant a review of the order.

Navigator has shown that good cause exists to conduct a changed circumstance review because the name change will affect its import documentation before U.S. Customs and Border Protection (“CBP”), thus affecting CBP’s treatment of its entries. The information submitted by Navigator claiming that Navigator is the successor-in-interest to Portucel also demonstrates

changed circumstances sufficient to warrant a review. Therefore, in accordance with section 751(b)(1) of the Act and 19 CFR 351.216(c)-(d), the Department is initiating a changed circumstances review to determine whether Navigator is the successor-in-interest to Portucel.

Preliminary Results

The Department may issue the notice of initiation of the review and the preliminary results concurrently when it concludes that expedited action is warranted.⁵ We find that expedited action is warranted because we have the information necessary on the record to make a preliminary finding. Therefore, we are combining the notice of initiation and the notice of preliminary results in accordance with 19 CFR 351.221(c)(3)(ii).

In determining whether one company is the successor to another for purposes of applying the antidumping duty (“AD”) law, the Department examines a number of factors including, but not limited to, changes in (1) management, (2) production facilities, (3) suppliers, and (4) customer base.⁶ While no one or several of these factors will necessarily provide a dispositive indication of succession, the Department will generally consider one company to be the successor to another company if its resulting operation is essentially the same as that of its predecessor.⁷ Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the prior company, the Department will assign the new company the cash deposit rate of its predecessor.⁸

⁵ 19 CFR 351.221(c)(3)(ii); see also Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Multilayered Wood Flooring from the People’s Republic of China, 80 FR 7842 (Feb. 12, 2015); Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Initiation and Preliminary Results of Changed Circumstances Review, 77 FR 4993 (February 1, 2012).

⁶ See, e.g., Notice of Preliminary Results of Antidumping Duty Changed Circumstances Review: Polychloroprene Rubber from Japan, 69 FR 61796, 61797 (October 21, 2004).

⁷ Id.

⁸ See, e.g., Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan: Initiation of Antidumping Duty Changed Circumstance Review, 70 FR 17063, 17064 (April 4, 2005); Fresh and Chilled Atlantic Salmon from Norway: Final Results of Changed Circumstances Administrative Review, 64 FR 9979, 9980 (March 1, 1999).

In its August 26, 2016 submission, Navigator provided documentation demonstrating that Navigator is the successor in interest to Portucel in that no major changes occurred with respect to management, production process, customer base, or suppliers.⁹

According to the information provided, no material changes in management,¹⁰ operations,¹¹ or ownership¹² have occurred in the businesses as a result of the name change from Portucel to Navigator. Navigator's General Managers, Board of Directors, and shareholders have not materially changed from Portucel's following its name change.¹³ Navigator's production facilities and production of subject merchandise remain the same as Portucel.¹⁴ Navigator has maintained Portucel's business model as a vertically integrated producer such that there are no material changes in its suppliers.¹⁵ Navigator continues to export to the same sole customer in the United States as Portucel, thus there are no material changes between Portucel's and Navigator's customer bases.¹⁶

Should our final results remain the same as these preliminary results, effective the date of publication of the final results, we will instruct U.S. Customs and Border Protection to assign entries of subject merchandise exported by Navigator the antidumping duty cash-deposit rate applicable to Portucel.

⁹ See, generally, CCR Request.

¹⁰ Id. at Attachment 2 and 4 (showing any changes in Board of Directors to be routine and unrelated to the successor-in-interest claim).

¹¹ Id. at Attachment 1, 6, and 7.

¹² Id. at Attachment 8; see also Certain Pasta from Turkey: Preliminary Results of Countervailing Duty Changed Circumstances Review, 74 FR 47225 (September 15, 2009) (unchanged in final) ("the types of changes that we normally consider to be significant { . . . does not include. . . } regular buying and selling of publicly owned shares held by a broad array of investors").

¹³ CCR Request at 3-4 and Attachments 2, 4, 6, and 7.

¹⁴ Id. at Attachments 1, 6, and 7.

¹⁵ Id. at Attachment 9.

¹⁶ Id. at Attachment 10 (showing Navigator's U.S. affiliate's customers for fiscal year 2015 and January through July of 2016).

Public Comment

Interested parties are invited to comment on these preliminary results. Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than 14 days after the date of publication of this notice, 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.¹⁷ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

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. All documents must be filed electronically using ACCESS. An electronically-filed request must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Standard Time, within 14 days after the date of publication of this notice.¹⁸ 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 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 time and date to be determined.

Consistent with 19 CFR 351.216(e), we will issue the final results of this changed circumstances review no later than 270 days after the date on which this review was initiated or within 45 days of publication of these preliminary results if all parties agree to our preliminary finding.

¹⁷ See 19 CFR 351.309.

¹⁸ See 19 CFR 351.310(c).

We are issuing and publishing this initiation and preliminary results notice in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216 and 351.221(c)(3).

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

October 7, 2016

Date

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