



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-580-885]

Phosphor Copper from the Republic of Korea: Final Affirmative Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances

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

SUMMARY: The Department of Commerce (the Department) determines that phosphor copper from the Republic of Korea (Korea) is being, or is likely to be, sold in the United States at less than fair value (LTFV). Bongsan Co., Ltd. (Bongsan) is the sole mandatory respondent in this investigation. The period of investigation (POI) is January 1, 2015, through December 31, 2015.

The final estimated dumping margins of sales at LTFV are shown below in the “Final Determination” section of this notice.

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

FOR FURTHER INFORMATION CONTACT: Cindy Robinson or Samuel Brummitt,

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) 482-3797 or (202) 482-7851, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 14, 2016, the Department published its preliminary affirmative determination of sales at LTFV in the investigation of phosphor copper from Korea.¹ The following events occurred since the *Preliminary Determination* was issued.

On October 27, 2016, we postponed the final determination to February 27, 2017.² Between November 9, 2016, and November 18, 2016, the Department verified the sales and cost data reported by Bongsan, the sole mandatory respondent in this investigation. We issued our verification reports of Bongsan's sales and cost responses on December 9, 2016, and December 19, 2016, respectively.³

Metallurgical Products Company (Petitioner) submitted its case brief on December 28, 2016.⁴ Bongsan submitted its rebuttal brief on January 3, 2017.⁵ Petitioner requested that the Department conduct a hearing in this investigation, which the Department conducted on January 25, 2017.⁶

¹ See *Phosphor Copper from the Republic of Korea: Affirmative Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances*, 81 FR 71049 (October 14, 2016) (*Preliminary Determination*).

² See *Phosphor Copper from the Republic of Korea: Postponement of Final Determination of Sales at Less Than Fair Value*, 81 FR 74763 (October 27, 2016). Postponing the final determination to 135 days after the publication of the *Preliminary Determination* would place the deadline on Sunday, February 26, 2017. The Department's practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day. See *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

³ See Memorandum to the File from Cindy Robinson, Samuel Brummitt, and Amanda Mallott, Analysts, "Verification of the Sales Responses of Bongsan Co., Ltd.," dated December 8, 2016 (Sales Verification Report); see also Memorandum to the File from Gina K. Lee, Senior Accountant, "Verification of the Cost Response of Bongsan in the Antidumping Duty Investigation of Phosphor Copper from the Republic of Korea," dated December 19, 2016 (Cost Verification Report).

⁴ See Petitioner's letter dated December 27, 2016.

⁵ See Bongsan's letter dated January 3, 2017.

⁶ See Petitioner's letter, "Phosphor Copper from Korea: Request for Hearing," dated November 14, 2016; see also Hearing Transcript, filed on the record February 6, 2017.

A full discussion of the issues raised by parties for this final determination may be found in the Issues and Decision Memorandum, which is hereby adopted by this notice.⁷

Scope of the Investigation

The product covered by this investigation is phosphor copper from Korea. For a complete description of the scope of this investigation, *see* Appendix I.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs in this investigation are addressed in the Issues and Decision Memorandum. A list of the issues raised is attached to this notice at 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 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.

Final Negative Determination of Critical Circumstances

On October 14, 2016, the Department found that critical circumstances do not exist for merchandise exported by Bongsan.⁸ Based on the final dumping margin for Bongsan and further analysis following the *Preliminary Determination*, we are not modifying our findings for

⁷ See Memorandum from James Maeder, Senior Director, Office I, for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, "Issues and Decision Memorandum for the Final Determination in the Antidumping Duty Investigation of Phosphor Copper from the Republic of Korea," dated concurrently with this notice (Issues and Decision Memorandum).

⁸ See *Preliminary Determination*.

the final determination. For a complete discussion of this issue, *see* the “Final Negative Determination of Critical Circumstances” section of the Issues and Decision Memorandum.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), from November 9, 2016, to November 13, 2016, we conducted verification of the sales responses by Bongsan. From November 14, 2016, to November 18, 2016, we conducted verification of the cost responses by Bongsan. We issued our verification reports of Bongsan’s sales and cost responses on December 9, 2016, and December 19, 2016, respectively.⁹ The Department used standard verification procedures, including an examination of relevant accounting and production records and original source documents provided by Bongsan.¹⁰

Changes Since the Preliminary Determination

Based on our analysis of the comments received and our findings at verification, we made the following changes to Bongsan’s final margin calculation: (1) we recalculated the company’s general and administrative expense (G&A) ratio; (2) we recalculated the company’s interest expense (INTEX) ratio; (3) we corrected a customer code for a U.S. customer in the calculation of billing adjustments; (4) we removed the duty drawback adjustment from Bongsan’s margin calculation; and (5) we recalculated indirect selling expense ratios for home market and U.S. market sales. As a result of these changes, the weighted-average dumping margin for Bongsan and all others has changed. For a discussion of these changes, *see* the Issues and Decision Memorandum.

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

⁹ *See* Sales Verification Report; *see also* Cost Verification Report.

¹⁰ *Id.*

established for exporters and producers individually investigated, excluding any zero or *de minimis* margins, and any margins determined entirely under section 776 of the Act. Bongsan is the only respondent for which the Department has 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 Bongsan, as referenced in the “Final Determination” section below.

Final Determination

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

Exporter/Producer	Weighted-Average Dumping Margin (percent)
Bongsan Co., Ltd.	8.43
All Others	8.43

Disclosure

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

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue the suspension of liquidation of all appropriate entries of phosphor copper from Korea, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after October 14, 2016, the date of publication of the *Preliminary Determination* of this investigation in the *Federal Register*. Further, the Department will instruct CBP to require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price as shown above.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the International Trade Commission (ITC) of our 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 phosphor copper from Korea 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 securities posted will be refunded or canceled. 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 appropriate 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 the parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APOs 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 APOs is a sanctionable violation.

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

Dated: February 27, 2017

Ronald K. Lorentzen
Acting Assistant Secretary
for Enforcement and Compliance

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is master alloys¹¹ of copper containing between five percent and 17 percent phosphorus by nominal weight, regardless of form (including but not limited to shot, pellet, waffle, ingot, or nugget), and regardless of size or weight. Subject merchandise consists predominantly of copper (by weight), and may contain other elements, including but not limited to iron (Fe), lead (Pb), or tin (Sn), in small amounts (up to one percent by nominal weight). Phosphor copper is frequently produced to JIS H2501 and ASTM B-644, Alloy 3A standards or higher; however, merchandise covered by this investigation includes all phosphor copper, regardless of whether the merchandise meets, fails to meet, or exceeds these standards.

Merchandise covered by this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7405.00.1000. This HTSUS subheading is provided for convenience and customs purposes; the written description of the scope of this investigation is dispositive.

¹¹ A “master alloy” is a base metal, such as copper, to which a relatively high percentage of one or two other elements is added.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Period of Investigation
- IV. Postponement of Final Determination
- V. Scope of the Investigation
- VI. Final Negative Determination of Critical Circumstances
- VII. List of Comments
- VIII. Discussion of Comments
 - 1. Whether the Department Should Adjust Bongsan's General and Administrative Expense Ratio to Exclude Items Related to Prior Periods
 - 2. Whether the Department Should Recalculate Bongsan's Financial Expense Ratio to Account for Gains and Losses on Certain Derivative Transactions
 - 3. Date of Sale for Certain U.S. Customer
 - 4. Duty Drawback
 - 5. Ministerial Error Regarding U.S. Billing Adjustments
 - 6. Revision to Indirect Selling Expense Ratios
- IX. Recommendation

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