



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-055]

Carton-Closing Staples from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value

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

SUMMARY: The Department of Commerce (Commerce) determines that carton-closing staples from the People's Republic of China (China) are being, or are likely to be, sold in the United States at less than fair value (LTFV). The final dumping margin of sales at LTFV is shown in the "Final Determination" section of this notice.

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

FOR FURTHER INFORMATION CONTACT: Irene Gorelik, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6905.

SUPPLEMENTARY INFORMATION:

Background

On November 3, 2017, Commerce published in the *Federal Register* its preliminary affirmative determination in the LTFV investigation of carton-closing staples from China.¹ For a complete description of the events that followed the *Preliminary Determination*, see the Issues and Decision Memorandum that is dated concurrently with this determination and hereby

¹ See *Carton-Closing Staples from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Extension of Provisional Measures*, 82 FR 51213 (November 3, 2017) (*Preliminary Determination*) and accompanying Preliminary Decision Memorandum.

adopted by this notice.² Commerce exercised its discretion to toll deadlines affected by the closure of the Federal Government from January 20 through 22, 2018. If the new deadline falls on a non-business day, in accordance with Commerce's practice, the deadline will become the next business day. The revised deadline for the final determination of this investigation is now March 21, 2018.³

A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum. 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 <http://access.trade.gov>, and is available to all parties in the Central Records Unit, Room B8024 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/>. The signed Issues and Decision Memorandum and the electronic version are identical in content.

Period of Investigation

The period of investigation (POI) is July 1, 2016, through December 31, 2016.

² See Memorandum, "Issues and Decision Memorandum for the Final Affirmative Determination in the Less-Than-Fair-Value Investigation of Carton-Closing Staples from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

³ See Memorandum for The Record from Christian Marsh, Deputy Assistant Secretary for Enforcement and Compliance, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, "Deadlines Affected by the Shutdown of the Federal Government" (Tolling Memorandum), dated January 23, 2018. All deadlines in this segment of the proceeding have been extended by 3 days.

Scope of the Investigation⁴

The products covered by this investigation are carton-closing staples from China. For a full description of the scope of this investigation, see the “Scope of the Investigation,” in Appendix I of this notice. The scope in Appendix I reflects the final scope language.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs that were submitted by parties in this investigation are addressed in the Issues and Decision Memorandum accompanying this notice, which is hereby adopted by this notice. A list of the issues addressed in the Issues and Decision Memorandum is attached to this notice at Appendix II.

For the final determination, Commerce continues to rely upon facts otherwise available, with adverse inferences based on adverse facts available (AFA), for the China-wide entity, including Zhejiang Best Nail Industrial Co., Ltd. (Best Nail), pursuant to sections 776(a)-(b) of the Tariff Act of 1930, as amended (the Act). Furthermore, as discussed in the Issues and Decision Memorandum, Commerce continues to find, pursuant to sections 771(33)(A) and (F) of the Act, that the mandatory respondent, Shanghai Yueda Nails Co., Ltd, is affiliated with Qiushan Printing Machinery Co., Ltd., Fastnail Products Limited, and Wuhan FOPO Trading Co., Ltd., and that these companies should be treated as a single entity pursuant 19 CFR 351.401(f), hereinafter referred to as Yueda Group. However, for the final determination, we find that another company, China Dinghao Co., Limited (Dinghao), is affiliated within the meaning of section 771(33)(G) of the Act, and should, in accordance with 19 CFR 351.401(f)(2)(iii), also be treated as part of this single entity, pursuant to our verification of the

⁴ Commerce has made no changes to the scope of the investigation as published in the *Preliminary Determination*. Further, no interested party commented on our preliminary scope determination that the mattress boxspring staples imported by Vertex Fasteners, a division of Leggett & Platt, Incorporated, are not covered by the scope of the investigation. See *Preliminary Determination* and accompanying Preliminary Decision Memorandum at pages 3-4. Accordingly, our determination remains unchanged and we continue to find that Vertex Fasteners’ mattress boxspring staples, as described in the *Preliminary Determination*, are not covered by the scope of this investigation.

Yueda Group. Based on Commerce's verification of the Yueda Group, we continue to find it entitled to a separate rate, but determine it appropriate to base Yueda Group's estimated dumping margin on AFA, pursuant to sections 776(a)-(b) of the Act.⁵

China-Wide Entity

For the final determination, we continue to find, in accordance with section 776(a) of the Act, that the China-wide entity, which includes certain Chinese exporters and/or producers⁶ that did not respond to Commerce's requests for information, failed to provide necessary information, failed to provide information in a timely manner, and significantly impeded this proceeding by not submitting the requested information. We also continue to find, in accordance with section 776(b) of the Act, that the China-wide entity failed to cooperate. As a result, we continue to assign to the China-wide entity a dumping margin on the basis of AFA.

In selecting the AFA rate for Yueda Group and the China-wide entity, Commerce's practice is to select a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated.⁷ Specifically, it is Commerce's practice to select, as an AFA rate, the higher of: (a) the highest dumping margin alleged in the petition; or (b) the highest calculated dumping margin of any respondent in the investigation.⁸ As there are no respondents for which we are calculating a separate dumping margin for the final determination, we relied upon the rates found in the Petition, which is the only information regarding the carton-closing staples industry reasonably

⁵ See Issues and Decision Memorandum for further discussion.

⁶ The China-wide entity includes Best Nail and 20 Chinese exporters and/or producers that failed to respond to our Quantity and Value Questionnaire. See *Preliminary Determination*, 82 FR at 51214 and accompanying Preliminary Decision Memorandum at 14, footnote 86.

⁷ See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Rep. No. 103-316 at 870 (1994) (H.R. Rep 103-316), reprinted in 1994 U.S.C.A.A.N.

⁸ See *Silicon Metal from Australia: Affirmative Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances in Part*, 83 FR 9839 (March 8, 2018) and accompanying Issues and Decision Memorandum at Comment 1.

at Commerce's disposal to determine a rate that is sufficiently adverse to induce cooperation.⁹ Thus, as AFA, Commerce assigned to Yueda Group and the China-wide entity the rate of 263.40 percent, which is the highest dumping margin alleged in the Petition.¹⁰ For the final determination, because there were no margins calculated for the mandatory respondents, to corroborate the 263.40 percent margin used as AFA for Yueda Group and the China-wide entity, to the extent appropriate information was available, we are affirming our pre-initiation analysis of the adequacy and accuracy of the information in the Petition.¹¹ Accordingly, we find that the rate of 263.40 percent is corroborated within the meaning of section 776(c) of the Act.

Separate Rates

For the final determination, we continue to find that Hangzhou Huayu Machinery Co., Ltd. and The Stanley Works (Langfang) Fastening Systems Co., Ltd. are entitled to a separate rate, as noted below. In the *Preliminary Determination*, we assigned, as the separate rate, the margin calculated for the single remaining mandatory respondent (Yueda Group), consistent with our practice.¹² However, because we have determined to base Yueda Group's final dumping margin on AFA, we can no longer rely on Yueda Group's preliminary calculated rate as the separate rate. Therefore, because we are determining Yueda Group's rate and the China-wide rate based on AFA, we are looking to section 735(c)(5)(A)-(B) of the Act for guidance and are, consistent with that provision, using "any reasonable method" to determine the rate for exporters

⁹ See, e.g., *Certain Hardwood Plywood Products from the People's Republic of China: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, in Part*, 82 FR 28629 (June 23, 2017) and accompanying Preliminary Decision Memorandum at pages 31-32 (revised in *Certain Hardwood Plywood Products from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, and Final Affirmative Determination of Critical Circumstances, in Part*, 82 FR 53460 (November 16, 2017) because Commerce calculated a higher rate than the highest Petition rate to apply as the AFA rate)).

¹⁰ See Petition for the Imposition of Antidumping Duties on Imports of Carton-Closing Staples from the People's Republic of China, dated March 31, 2017 (Petition), and Petitioner's Supplemental Questionnaire Response, dated April 6, 2017 (Petition Supplemental Response), at 19-20 and Exhibit II-SQ-9.

¹¹ See Issues and Decision Memorandum at pages 23-25, for the discussion regarding corroboration of the AFA rate. See also Petition and Petition Supplemental Response, at 19-20 and Exhibit II-SQ-9.

¹² See *Preliminary Determination*, 82 FR at 51214, and accompanying Preliminary Decision Memorandum at 12-13.

that are not being individually examined and found to be entitled to a separate rate, as we did in the *Preliminary Determination*. As “any reasonable method,” we find it appropriate to assign the simple average of the Petition rates¹³ (i.e., 115.65 percent) to the separate rate applicants not individually examined.¹⁴

Combination Rates

In the *Initiation Notice*,¹⁵ Commerce stated that it would calculate producer/exporter combination rates for the respondents that are eligible for a separate rate in this investigation. Policy Bulletin 05.1 describes this practice.¹⁶

Final Determination

Commerce determines that carton-closing staples from China are being, or is likely to be, sold in the United States at LTFV, and that the following dumping margins exist:

Producer	Exporter	Estimated Dumping Margin (percent)
Yueda Group ¹⁷ Shanghai Yueda Nails Co., Ltd., or Qiushan Printing Machinery Co., Ltd.	Yueda Group: Shanghai Yueda Nails Co., Ltd., or Fastnail Products Limited, or Wuhan FOPO Trading Co., Ltd., or China Dinghao Co., Limited	263.40
Hangzhou Huayu Machinery Co., Ltd.	Hangzhou Huayu Machinery Co., Ltd.	115.65
The Stanley Works (Langfang) Fastening Systems Co., Ltd.	The Stanley Works (Langfang) Fastening Systems Co., Ltd.	115.65

¹³ See Petition and Petition Supplemental Response, at 19-20 and Exhibit II-SQ-9.

¹⁴ See Issues and Decision Memorandum at Comment 3. See also *Galvanized Steel Wire from the People’s Republic of China: Final Determination of Sales at Less Than Fair Value*, 77 FR 17430, 16432 (March 26, 2012).

¹⁵ See *Initiation Notice*, 82 FR at 19355.

¹⁶ See Enforcement and Compliance’s Policy Bulletin No. 05.1, regarding, “Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,” (April 5, 2005) (Policy Bulletin 05.1), available on Commerce’s Web site at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

¹⁷ Commerce determines that Shanghai Yueda Nails Co., Ltd, Qiushan Printing Machinery Co., Ltd., China Dinghao Co., Limited, Fastnail Products Limited, and Wuhan FOPO Trading Co., Ltd., are affiliated pursuant to sections 771(33)(A) and (F) of the Act and should be treated as a single entity pursuant to 19 CFR 351.401(f). See Issues and Decision Memorandum at 2-5.

China-Wide Entity ¹⁸	263.40
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Disclosure

Normally, Commerce discloses to interested parties the calculations performed in connection with a final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final determination in the *Federal Register*, in accordance with 19 CFR 351.224(b). Because Commerce applied total AFA to the sole individually examined company, Yueda Group, in accordance with section 776 of the Act, and the applied AFA rate is based solely on at rate from the Petition, there are no calculations to disclose for Yueda Group. However, we will disclose the calculation of the simple average of the Petition margins, which we applied to the non-individually examined companies receiving a separate rate (*i.e.*, 115.65 percent), within five days of the date of publication of this notice to parties in this proceeding, 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 direct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all entries of carton-closing staples from China, as described in Appendix I of this notice, which are entered, or withdrawn from warehouse, for consumption on or after November 3, 2017, the date of publication in the *Federal Register* of the affirmative *Preliminary Determination*. Pursuant to section 735(c)(1) of

¹⁸ As discussed in the *Preliminary Determination*, Best Nail, a mandatory respondent in this investigation, and certain non-responsive Chinese companies did not demonstrate that they were entitled to a separate rate. Accordingly, we continue to consider Best Nail and these companies to be part of the China-wide entity. See *Preliminary Decision Memorandum* at 14, footnote 86.

the Act, we will instruct CBP to require a cash deposit equal to the margins indicated in the chart above.¹⁹ These suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we intend to notify the International Trade Commission (ITC) of the final affirmative determination of sales at LTFV. As Commerce's final determination is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will determine, within 45 days, whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of carton-closing staples from China, or sales (or the likelihood of sales) for importation, of carton-closing staples from China. If the ITC determines that such injury does not exist, this proceeding will be terminated, and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, Commerce intends to issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, 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

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

¹⁹ See *Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations*, 76 FR 61042 (October 3, 2011).

We intend to issue and publish this determination in accordance with sections 735(d) and 777(i)(1) of the Act.

Gary Taverman,
Deputy Assistant Secretary
for Antidumping and Countervailing Duty Operations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance.

March 21, 2018

Date

Appendix I

Scope of the Investigation

The scope of this investigation is carton-closing staples. Carton-closing staples may be manufactured from carbon, alloy, or stainless steel wire, and are included in the scope of the investigation regardless of whether they are uncoated or coated, regardless of the type of coating.

Carton-closing staples are generally made to American Society for Testing and Materials (ASTM) specification ASTM D1974/D1974M- 16, but can also be made to other specifications. Regardless of specification, however, all carton-closing staples meeting the scope description are included in the scope. Carton-closing staples include stick staple products, often referred to as staple strips, and roll staple products, often referred to as coils. Stick staples are lightly cemented or lacquered together to facilitate handling and loading into stapling machines. Roll staples are taped together along their crowns. Carton-closing staples are covered regardless of whether they are imported in stick form or roll form.

Carton-closing staples vary by the size of the wire, the width of the crown, and the length of the leg. The nominal leg length ranges from 0.4095 inch to 1.375 inches and the nominal crown width ranges from 1.125 inches to 1.375 inches. The size of the wire used in the production of carton-closing staples varies from 0.029 to 0.064 inch (nominal thickness) by 0.064 to 0.100 inch (nominal width).

Carton-closing staples subject to this investigation are currently classifiable under subheadings 8305.20.00.00 and 7317.00.65.60 of the Harmonized Tariff Schedule of the United States (HTSUS). While the HTSUS subheadings and ASTM specification are provided for convenience and for customs purposes, the written description of the subject merchandise is dispositive.

Appendix II

List of Topics Discussed in the Issues and Decision Memorandum:

- I. Summary
- II. Background
- III. Changes from the Preliminary Determination
- IV. Discussion of the Issues
 - Comment 1: Whether to Assign Total Adverse Facts Available to Yueda Group
 - A. Chronology
 - B. Verification and Timing
 - C. Reliance on Unverified Information
 - D. Commerce's Conduct Regarding the Toller
 - E. Application of Facts Available and Adverse Facts Available
 - F. Selection and Corroboration of the AFA Rate
 - Comment 2: Reliance on Toller's Reported FOP Data
 - Comment 3: Separate Rate Assigned to Non-Individually Examined Respondents
 - Comment 4: Whether to Find Affirmative Critical Circumstances
 - Additional Arguments Regarding Calculations
- V. Recommendation

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