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DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-070]

Rubber Bands from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Determination

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

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of rubber bands from the People's Republic of China (China) for the period of investigation of January 1, 2017, through December 31, 2017. Interested parties are invited to comment on this preliminary determination.

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

FOR FURTHER INFORMATION CONTACT: Kristen Johnson, 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) 482-4793.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). On February 20, 2018, we initiated a countervailing duty (CVD) investigation of rubber bands from China.¹ On April 12, 2018, in accordance with

¹ See *Rubber Bands from Thailand, the People's Republic of China, and Sri Lanka: Initiation of Countervailing Duty Investigations*, 83 FR 8429 (February 27, 2018) (*Initiation Notice*).

section 703(c)(1)(A) of the Act, we postponed the preliminary determination of this investigation to July 2, 2018.²

For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.³ A list of topics discussed in the Preliminary Decision Memorandum is included in Appendix II of this notice. The Preliminary 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 Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The products covered by this investigation are rubber bands from China. For a complete description of the scope of this investigation, *see* Appendix I.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines

² *See Rubber Bands from Thailand and the People's Republic of China: Postponement of Preliminary Determinations in the Countervailing Duty Investigations*, 83 FR 15789 (April 12, 2018).

³ *See* Memorandum, "Decision Memorandum for the Preliminary Affirmative Determination in the Countervailing Duty Investigation of Rubber Bands from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

that there is a subsidy, *i.e.*, a financial contribution by an “authority” that confers a benefit to the recipient, and that the subsidy is specific.⁴

In making these findings, we relied solely on facts available because neither the Government of China nor any of the selected mandatory respondent companies responded to the questionnaire.⁵ Further, because these parties did not act to the best of their ability to respond to Commerce’s requests for information, we drew an adverse inference in selecting from among the facts otherwise available.⁶ For further information, *see* Preliminary Decision Memorandum at “Use of Facts Otherwise Available and Adverse Inferences.”

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4)(i), we are aligning the final CVD determination in this investigation with the final determination in the companion antidumping duty (AD) investigation of rubber bands based on a request made by the petitioner.⁷ 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 November 13, 2018, unless postponed.⁸

⁴ *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.

⁵ Because the respondents in this investigation did not provide information requested by Commerce, and Commerce preliminarily determines each of the respondents to be uncooperative, we will not conduct verification.

⁶ *See* sections 776(a) and (b) of the Act.

⁷ The petitioner in this investigation is Alliance Rubber Co. *See* Letter from the petitioner, “Petition for the Imposition of Antidumping and Countervailing Duties on Rubber Bands from Thailand and China – Petitioner’s Request for Postponement of the Preliminary Determinations,” dated March 27, 2018.

⁸ The AD preliminary determination was postponed to no later than August 29, 2018, *see Rubber Bands from the People’s Republic of China and Thailand: Postponement of Preliminary Determinations in the Less-Than-Fair-Value Investigations*, 83 FR 29748 (June 26, 2018). Therefore, the AD final determination is currently due for signature no later than Monday, November 12, 2018, which is a federal holiday. Commerce’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)). As such, the AD final determination signature date rolls to Tuesday, November 13, 2018.

All-Others Rate

Sections 703(d)(1)(A) and 705(c)(5)(A) of the Act provide that Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.⁹ In this investigation, Commerce preliminarily assigned a rate based entirely on facts available to each of the mandatory respondents. There is no other information on the record with which to determine an all-others rate. As a result, in accordance with section 705(c)(5)(A)(ii) of the Act, we are using “any reasonable method” and have established the all-others rate by applying the countervailable subsidy rate assigned to the mandatory respondents.

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy Rate (percent)
Graceful Imp. & Exp. Co., Ltd.	125.77 percent
Moyoung Trading Co., Ltd.	125.77 percent
Ningbo Syloon Imp & Exp Co., Ltd.	125.77 percent
All-Others	125.77 percent

Suspension of Liquidation

In accordance with section 703(d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation entered, or withdrawn from warehouse, for consumption on or after

⁹ See section 705(c)(5)(A)(i) of the Act.

the date of publication of this notice in the *Federal Register*. Further, pursuant to section 703(d)(1)(B) of the Act and 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Public Comment

Interested parties may submit case and rebuttal briefs, as well as request a hearing. Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance *via* ACCESS no later than 30 days after the publication of the preliminary determination in the *Federal Register*.¹⁰ Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.¹¹ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation 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.¹² This summary should be limited to five pages total, including footnotes.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance within 30 days after the date of publication of this notice in the *Federal Register* *via* ACCESS. Hearing requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230, at a time and date to be determined. Prior to the date of the hearing, Commerce will contact all parties that submitted case or rebuttal briefs to determine if

¹⁰ See 19 CFR 351.309(c)(1)(i); *see also* 19 CFR 351.303 (for general filing requirements).

¹¹ See 19 CFR 351.309(d)(1).

¹² See 19 CFR 351.309(c)(2) and (d)(2).

they wish to participate in the hearing. Commerce will then provide a hearing schedule to the parties prior to the hearing and only those parties listed on the schedule may present issues raised in their briefs. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Electronically filed documents must be received successfully in their entirety by 5:00 p.m. Eastern Time,¹³ on the due dates established above.

International Trade Commission (ITC) Notification

In accordance with section 703(f) of the Act, we will notify the ITC of its determination. In addition, Commerce will make available to the ITC all non-privileged and non-proprietary information relating to this investigation. Commerce will allow the ITC access to all privileged and business proprietary information in the files, provided the ITC confirms that it will not disclose such information, either publicly or under an APO, without the written consent of the Assistant Secretary for Enforcement and Compliance.

Pursuant to section 705(b)(2) of the Act, if Commerce's final determination is affirmative, the ITC will make its final determination before the later of 120 days after the date of this preliminary determination, or 45 days after Commerce's final determination.

¹³ See 19 CFR 351.303(b)(1).

Notification to Interested Parties

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

Dated: July 2, 2018.

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.

Appendix I

Scope of the Investigation

The products subject to this investigation are bands made of vulcanized rubber, with a flat length, as actually measured end-to-end by the band lying flat, no less than ½ inch and no greater than 10 inches; with a width, which measures the dimension perpendicular to the length, actually of at least 3/64 inch and no greater than 2 inches; and a wall thickness actually from 0.020 inch to 0.125 inch. Vulcanized rubber has been chemically processed into a more durable material by the addition of sulfur or other equivalent curatives or accelerators. Subject products are included regardless of color or inclusion of printed material on the rubber band's surface, including but not limited to, rubber bands with printing on them, such as a product name, advertising, or slogan, and printed material (*e.g.*, a tag) fastened to the rubber band by an adhesive or another temporary type of connection. The scope includes vulcanized rubber bands which are contained or otherwise exist in various forms and packages, such as, without limitation, vulcanized rubber bands included within a desk accessory set or other type of set or package, and vulcanized rubber band balls. The scope excludes products that consist of an elastomer loop and durable tag all-in-one, and bands that are being used at the time of import to fasten an imported product. Merchandise covered by this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 4016.99.3510. Merchandise covered by the scope may also enter under HTSUS subheading 4016.99.6050. While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope Comments
- IV. Scope of the Investigation
- V. Alignment
- VI. Injury Test
- VII. Application of the CVD Law to Imports from China
- VIII. Use of Facts Otherwise Available and Adverse Inferences
- IX. Calculation of the All-Others Rate
- X. Conclusion

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